



भारत का रजिपत्र The Gazette of India

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NEW DELHI, SATURDAY, JULY 20, 1996/ASADHA 29, 1918

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

विधि, न्याय और कम्पनी कार्य मंत्रालय

MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS

(विधि कार्य विभाग)

(Department of Legal Affairs)

(न्यायिक अनुभाग)

(Judicial Section)

सूचना

NOTICE

नई दिल्ली, 3 जुलाई, 1996

New Delhi, the 3rd July, 1996

का.आ. 2129.—नोटरीज नियम, 1956 के नियम 6 के
अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है
कि श्री भगवान सिंह सिकरवाल, एडवोकेट ने उक्त प्राधिकारी
को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात
के लिए दिया है कि उसे अजमेर (राजस्थान) में व्यवसाय
करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी
प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के
भीतर लिखित रूप में भेजे पाम भेजा जाए।

S.O. 2129.—Notice is hereby given by the Competent
Authority in pursuance of Rule 6 of the Notaries Act, 1956
that application has been made to the said Authority, under
Rule 4 of the said Rules, by Sh. Bhagwan Singh Sikarwal,
Advocate for appointment as a Notary to practise in Ajmer
(Rajasthan).

2. Any objection to the appointment of the said person
as a Notary may be submitted in writing to the under-
signed within fourteen days of the publication of this notice.

[सं. 5(139)/96-न्यायिक]

[No. F. 5 (139)/96-Judl.]

पी.सी. कण्णन, सक्षम प्राधिकारी

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 9 जुलाई, 1996

का.आ. 2130.—नोटरीय नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री विनोद कुमार अनेजा, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे चण्डीगढ़ संघ क्षेत्र में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में भेजे पारा भेजा जाए।

[सं. 5(137)/96-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 3rd July, 1996

S.O. 2130.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Vinod Kumar Aneja, Advocate for appointment as a Notary to practise in U.T. of Chandigarh.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5 (137)/96-Judl.]

P. C. KANNAN, Competent Authority

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 2 जुलाई, 1996

का.आ. 2131.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का एक्ट 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री सोमेन्द्रा घोष, अधिवक्ता, कलकत्ता, को मामला संख्या आरसी 4(एन)/94-एसआईयू-5/एसआईसी-2/एसपीई/सीबीआई/नई दिल्ली (एफ. आई. आर. नं. 112/93, थाना तिलजला) (तिराजला हत्याकांड) और उससे जुड़े अथवा उसके साथ घटित अन्य मामलों के लिए, जो सत्र न्यायालय, अलीपुर कलकत्ता में लंबित हैं, विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/32/96-ए. वी. डी.-II]

मतीश नन्द तिवारी, उप सचिव

MINISTRY OF PERSONNEL, PG & PENSIONS

(Department of Personnel & Training)

New Delhi, the 2nd July, 1996

S.O. 2131.—In exercise of the powers conferred by the proviso to sub-clause (8) of Section 24 of the Code of Criminal Procedure 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Saumendra Ghosh, Advocate,

Calcutta as Special Public Prosecutor for conducting Case R.C. 4(S)/94-SIU. V/SPE|New Delhi (FIR No. 112/93 P. S. Tiljala) (Tiljala Murder case) and any other matter conducted therewith or incidental thereto in the Session Court at Alipore, Calcutta.

[No. 225/32/96-AVD. II]

S. C. TEWARY, Dy. Secy.

नई दिल्ली, 9 जुलाई, 1996

का.आ. 2132.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तमिलनाडु राज्य सरकार के गृह (एस. सी.) विभाग की दिनांक 23.5.96 की अधिसूचना सं. एस.सी./2114-2/96 द्वारा प्राप्त तमिलनाडु राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तारण, आतंकवादी और विध्वंसक क्रियाकलाप निवारण अधिनियम, 1987, भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 147, 148 और 302 के अधीन दंडनीय अपराधों तथा उक्त अपराधों में संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षडयन्त्रों और निम्नलिखित मामलों के संबंध में उन्हीं तथ्यों से उद्भूत वैसे ही व्यवहार के अनुक्रम में किए गए किसी अन्य अपराध अथवा अपराधों के अन्वेषण के लिए, सम्पूर्ण तमिलनाडु राज्य पर करती है :—

(i) जी-1 थिलागर, थिदल पुलिस स्टेशन, मबुरे सिटी, तमिलनाडु का भारतीय दंड संहिता की धारा 128-बी सहित टांडा अधिनियम की धारा 3(2), (3(3) के साथ पठित भारतीय दंड संहिता की धारा 147, 148 और 302 के अधीन 1994 का अपराध सं. 2490

[सं. 228/44/96-एवीडी-II]

एस.सी. तिवारी, अवर सचिव

New Delhi, the 9th July, 1996

S.O. 2132.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act 25 of 1946), the Central Government with the consent of the State Government of Tamil Nadu vide Home (S. C.) Department Notification No. SC/2114-2/96 dated 28-5-96, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Tamil Nadu for investigation of offences punishable under the Terrorists and Disruptive Activities (Prevention) Act, 1987, Sections 147, 148 and 302 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and attempts, abetments and conspiracies in relation to or in connection with offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts in regard to the following cases :

(1) Crime No. 2490 of 1994 U/s 147, 148 and 302 IPC r/w Sec. 3(2), 3(3) of the TADA Act alongwith 120 B IPC of G. I. Thilagar, Thidal Police Station, Madurai City, Tamil Nadu.

[No. 228/44/96-AVD.II]

S. C. TEWARY, Dy. Secy.

नई दिल्ली, 9 जुलाई, 1996

का.आ. 2133.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तमिलनाडु राज्य सरकार के गृह (एस.सी.) विभाग की दि. 28-5-96 की अधिसूचना सं. एम.सी./2114-2/96 द्वारा प्राप्त तमिलनाडु राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तारण, विस्फोटक पदार्थ अधिनियम, 1908 के अधीन दंडनीय अपराधों तथा उक्त अपराधों से संबंधित अथवा संसक्त प्रयत्नों, दुष्करणों और षड्यंत्रों और निम्नलिखित मामलों के संबंध में उन्हीं तथ्यों से उद्भूत जैसे ही संयोजन के अनुक्रम में किए गए किसी अन्य अपराध अथवा अपराधों के अन्वेषण के लिए, सम्पूर्ण तमिलनाडु राज्य पर करती है:—

(1) बी-2 पुलिस स्टेशन, मदुरै सिटी, तमिलनाडु का विस्फोटक पदार्थ अधिनियम, 1908 (1908 का केन्द्रीय अधिनियम 6) की धारा 3 के अधीन अपराध सं. 262/96

[सं. 228/44/96-एवीसी-II]

एस.सी. तिवारी, अधर सचिव

New Delhi, the 9th July, 1996

S.O. 2133.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Police Establishment Act, 1946 (Act 25 of 1946), the Central Government with the consent of the State Government of Tamil Nadu vide Home (S.C.) Department Notification No. SC/2114-2/96 dated 28-5-96, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Tamil Nadu for investigation of offences punishable under the Explosives Substances Act, 1908, and attempts, abetments and conspiracies in relation to or in connection with offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts in regard to the following cases :

- (1) Crime No. 262/96 U/s 3 of the Explosives Substances Act, 1908 (Central Act 6 of 1908) of B 2 Police Station in Madurai City, Tamil Nadu.

[No. 228/44/96-AVD.II]
S. C. TEWARY, Dy. Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 20 मार्च, 1996

(आयकर)

का.आ. 2134.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा

“दी चर्च आफ साउथ इंडिया ट्रस्ट एसोसिएशन मद्रास” को कर-निर्धारण वर्ष 1995-96 से 1997-98 तक के लिए निम्न-लिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है अर्थात्:—

- (i) कर-निर्धारिता इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संघन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिता ऊपर उल्लिखित कर-निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक डंग अथवा शर्तों से भिन्न तरीकों से इसकी निधि (जवर-जवाहिरात फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वीच्छक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किता ऐसा आय के संबंध में लागू नहीं होगी जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से विधान-पुस्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 10026/फ. सं. 197/110/94-आयकर नि-II
एच. के. चौधरी, अधर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 20th March, 1996

(INCOME TAX)

S.O. 2134.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies “The Church of South India Trust Association, Madras” for the purpose of the said sub-clause for the assessment years 1995-96 to 1997-98 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10026/F. No. 197/110/94-ITA-I]

H. K. CHOUDHARY, Under Secy

नई दिल्ली 4 अप्रैल, 1996

(आयकर)

का.आ. 2135.—आयकर अधिनियम 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "श्री रामनशरम तिरुवनामलाई तमिलनाडु" को कर-निर्धारण वर्ष 1996-97 से 1998-99 तक के लिए, निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है अर्थात्:—

- (i) कर-निर्धारित इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संवयन पूर्णतया तथा अन्त्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारित उपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जवर-जवाहिरात फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वीकृत अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार में प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारित के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 10063/फा.सं. 197/137/95-आयकर नि.न]
अशुतोष चन्द्र, उप सचिव

New Delhi, the 4th April, 1996

(INCOME-TAX)

S.O. 2135.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies Sri Ramanasramam, Tiruvannamalai, Tamil Nadu for the purpose of the said sub-clause for the assessment years 1996-97 to 1998-99 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) this notification will not apply in relation any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10063/F. No. 197/137/95-IF-AI]
H. K. CHOUDHARY, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली 2 जुलाई, 1996

का.आ. 2136.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखण्ड (1) के साथ पठित बंकरारो कंपनी (उपक्रमों का यर्जन एवं अन्तरण) अधिनियम, 1970 की धारा 9 की उपधारा 3 के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा श्रीमती के. जे. उदेशी, मुख्य महाप्रबंधक, मानव संसाधन विकास विभाग भारतीय रिजर्व बैंक, केन्द्रीय कार्यालय, मुम्बई को श्रीमती श्यामला गोपीनाथ के स्थान पर बैंक आफ महाराष्ट्र के निदेशक के रूप में नामित करती है।

[सं. एफ. 9/18/95-बी.ओ.-I]

के. के. मंगल, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 2nd July, 1996

S.O. 2136.—In exercise of the powers conferred by clause (c) of sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby nominates Smt. K. J. Udeshi, Chief General Manager, Human Resources Development Department, Reserve Bank of India, Central Office, Mumbai as a director of Bank of Maharashtra vice Smt. Shyamala Gopinath.

[F. No. 9/18/95-BO.I]

K. K. MANGAL, Under Secy.

वाणिज्य मंत्रालय

विदेश व्यापार महानिदेशालय

आदेश

नई दिल्ली, 2 जुलाई, 1996

का.आ. 2137.—मैसर्स ट्रान्सफार्मर्स एंड इलेक्ट्रीकल्स केरल लिमिटेड, केरल (केरल सरकार का उपक्रम, को संलग्न सूची के अनुसार मदों के आयात (इटली में टाइप टस्टिंग के लिए 145 के. बी. और 245 के. बी. सर्किट ब्रेकर के निर्यात और पुनः आयात) के लिए 93,85,000/- रु.) (तिरान्तब्धे लाख और पच्चासी हजार रुपये) का आयात लाइसेंस संख्या पी/डी 2323905 दिनांक 19-8-94 प्रदान किया गया था। बाद में दिनांक 21-9-95 को आयात लाइसेंस का मूल्य

93,85,000/- रु. से बढ़ाकर 1,05,10,000/- रु. कर दिया गया था। इसे दिनांक 19-2-96 तक पुनर्वैधिकृत भी कर दिया गया था।

अब फर्म ने 28,09,000/- रु. मूल्य की ऊपर उल्लिखित लाइसेंस की सीमाशुल्क प्रयोजन प्रतिलिपि की अनुलिपि जारी करने के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल सीमा शुल्क प्रयोजन प्रति खो गई है अथवा अस्थानस्थ हो गई है। आगे यह बताया गया है कि लाइसेंस को सीमा शुल्क प्रयोजन प्रति सेंट्रल डोक्यूमेंटेशन सेंटर (कस्टम्स हाउस) कोचीन - 9 के पास पंजीकृत थी और उस सीमा शुल्क प्रयोजन प्रति का आंशिक रूप से उपयोग किया गया था।

अपने कथन के समर्थन में लाइसेंसधारी ने दिनांक 14-5-96 को नोटरी पब्लिक के समक्ष विधिवत शपथ लेकर स्टाम्प पेपर पर हलफनामा दायर किया है। मैं तदनुसार संतुष्ट हूं कि आयात लाइसेंस सं. पी/डी/2323905 दिनांक 19-8-94 की मूल सीमा शुल्क प्रयोजन प्रति फर्म से गुम हो गई है या अस्थानस्थ हो गई है। मैं विदेश व्यापार महानिदेशालय, नई दिल्ली द्वारा दिनांक 31-12-93 को जारी यथा संशोधित आर्डर एम.ओ. 1060 ई के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ट्रांसफार्मर्स एंड इलेक्ट्रीकल्स केरल लिमिटेड, केरल (केरल सरकार का उपक्रम) को जारी उक्त मूल सीमा शुल्क प्रयोजन प्रति सं. पी/डी/2323905 दिनांक 19-8-94 को एतद्वारा रद्द करता हूं।

उक्त लाइसेंस की सीमा शुल्क प्रयोजन प्रति की अनुलिपि पार्टी को अलग से जारी की जा रही है।

[फा. सं. एसपीएल/एनएस 5/307/एम 95/एसएलएस/98]

एच. एल. असवाल, उप महानिदेशक

MINISTRY OF COMMERCE

(Directorate General of Foreign Trade)

ORDER

New Delhi, the 2nd July, 1996

S.O. 2137.-M/s. Transformers and Electricals Kerala Ltd., Kerala (Govt. of Kerala undertaking) were granted an import licence No. P/D/2323905 dated 19-8-94 for Rs. 93,85,000 (Rupees Ninety three lakhs and eighty five thousand only) for import of items as per list attached (for Export and re-import of 145 KV and 245 KV Circuit Breaker for Type Testing at Italy). Subsequently the value of the import licence was enhanced from Rs. 93,85,000/- to Rs. 1,05,10,000/- on 21-9-95. It was also revalidated upto 19-2-96.

The firm has applied for issue of Duplicate copy of Customs purposes copy of the above mentioned licence for a value of Rs. 28,00,000/- on the ground that the original Customs Purposes copy of the licence has been lost or misplaced. It has further been stated that the Customs purpose copy of the licence was registered with Central Documentation Centre (Customs House) Cochin-9 and as such the value of Customs purpose copy has been utilised partly.

In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public on 14-5-1996. I am accordingly satisfied that the original Custom Purpose copy of import licence No. P/D/2323905 dated 19-8-94 has been lost or misplaced by the firm. In exercise of the powers conferred on me under Order S.O. 1060 dated 31-12-93 issued by DGFT, New Delhi, as amended the said Original Customs Purposes copy No. P/D/2323905 dated 19-8-94 issued to M/s. Transformers and Electricals Kerala Ltd., Kerala (Govt. of Kerala Undertaking) is hereby cancelled.

A duplicate Customs purposes copy of the said licence is being issued to the party separately.

[F. No. SPL/NS. 5/307/AM. 95/SLS/98]

H. L. ASWAL, Dy. Director General

भागरिक पूर्ति, उपभोक्ता मामले और सार्वजनिक वितरण मंत्रालय
नई दिल्ली, 4 जुलाई, 1996

का.आ. 2138.-केन्द्रीय सरकार का विहित प्राधिकारी द्वारा निवेदित रिपोर्ट (नीचे आकृति देखिए) पर विचार करने के पश्चात् समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग 3 की "ए आई डब्ल्यू" सिरीज टाइप के और अस्ट्रोन ट्रेडमार्क वाले अंकीय व प्रदर्शन वाले स्वतःसूचक गैर-स्वचालित इलेक्ट्रॉनिक टेबल टाप उपकरण के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स अस्ट्रोन इंस्ट्रुमेंट्स, गली सं. 1, रफीक कम्पाउंड, एम वी रोड, पीछे बायरलैस स्टेशन, दहीसर (पूर्व), मुम्बई-68 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई.एन.डी./09/95/66 समनुदिष्ट किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

माडल (आकृति देखिए) एक मध्यम यथार्थता (यथार्थता वर्ग 3) का टेबल टाप उपकरण है जिसकी अधिकतम क्षमता 10 किलोग्राम और न्यूनतम क्षमता 40 ग्राम है। स्थापन मापमान अन्तर (ई) 2 ग्राम है। इसमें एक टेंसर युक्त है जिसका व्यक्तनात्मक प्रतिधारण टेंसर प्रभाव 100 प्रतिशत है। आधार और प्लेटफार्स धात्विक है। भारग्राही आयताकार ताम सेक्शन है जिसके पार्श्व 240 × 300 मिमी-मीटर है। प्रकाश उत्सर्जन डायोड संप्रदर्श ताल परिणाम

उपदर्शित करता है। यह उपकरण 230 वॉल्ट, 50 हर्ट्ज के प्रत्यावर्ती धारा विद्युत प्रदाय पर प्रचालित होता है।

are metallic. The load receptor is of rectangular cross-section of sides 240x300 millimetre. The LCD display indicates the weighing result. The instrument operates on 230 volts, 50 Hertz alternate current power supply.



आकृति

आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण पत्र के अन्तर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित 1 किलोग्राम/1 ग्राम, 2 किलोग्राम/1 ग्राम, 4 किलोग्राम/1 ग्राम, 5 किलोग्राम/1 ग्राम, 8 किलोग्राम/2 ग्राम/15 किलोग्राम/5 ग्राम, 20 किलोग्राम/5 ग्राम, 30 किलोग्राम/10 ग्राम और 50 किलोग्राम/10 ग्राम की अधिकतम क्षमता वाले समरूप मैक, यथार्थता और उसी सिरीज के कार्यक्रमण वाले तोलन उपकरण भी हैं।

[फा. सं. डब्ल्यू. एम 21(13)/94]

राजीव श्रीवास्तव, संयुक्त सचिव

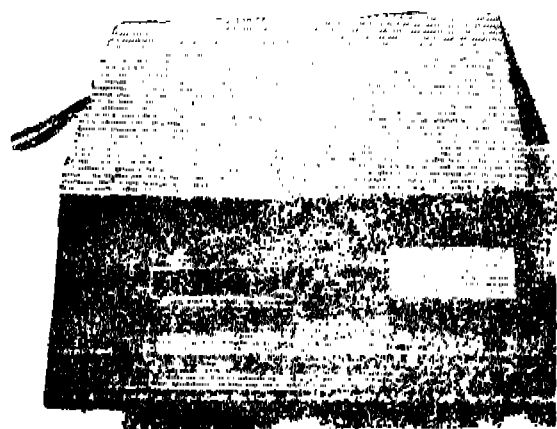
MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS
AND PUBLIC DISTRIBUTION

New Delhi, the 4th July, 1996

S.O. 2138.—Whereas the Central Government after considering the report submitted to it by the prescribed authority, (see figure below) is satisfied that the Model described in the said report is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the self-indicating non-automatic electronic table top instrument with digital display of type "AIW" series of class III medium accuracy and with the trade mark "ASTRON" (hereinafter called the model) manufactured by M/s. Astron Instruments, Gala No. 1, Rafic Compound SV Road, Opp. Wireless Stn., Dahisar (East) Bombay-68, and which is assigned the approval mark IND/09/95/66.

The model (see figure) is a medium accuracy (accuracy class III) table top instrument with a maximum capacity of 10 kg. and minimum capacity of 40g. The verification scale interval (e) is 2g. It has a tare device with a 100 percent subtractive retained tare effect. The base and the platform



(Figure)

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of similar make, accuracy and performance of same series with 1kg./1g, 2kg/1g, 4kg/1g, 5kg/1g, 8kg/2g, 15kg/5g, 20kg/5g, 30kg/10 and 50kg/10g manufactured by the same manufacturer in accordance with the same principle and with the same materials with which, the approved model has been manufactured.

[File No. WM 21(13)/94]

RAJIV SRIVASTAVA, Jt. Secy.

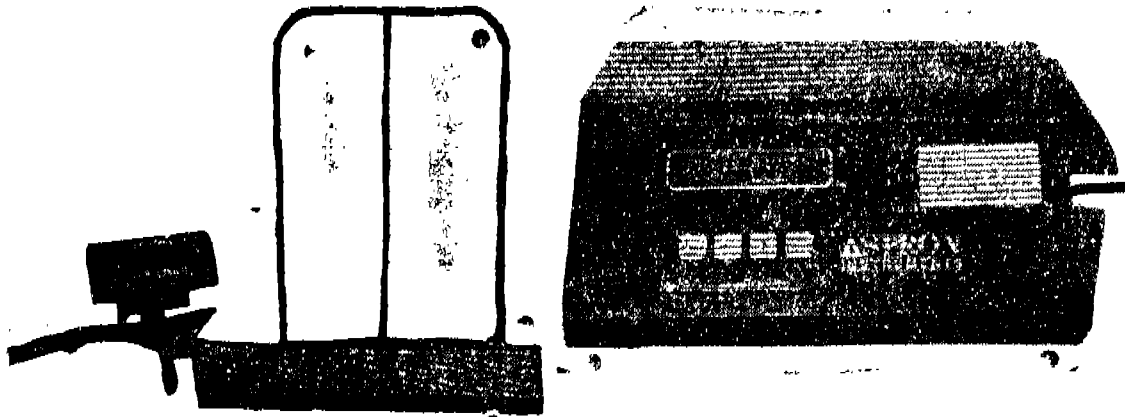
नई दिल्ली, 4 जुलाई, 1996

का.श्रा. 2139:—केन्द्रीय सरकार का चिह्नित प्राधिकारी द्वारा निवेदित रिपोर्ट (नीचे आकृति देखिए) पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल बाट और माप मानक अधिनियम 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाये रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा ;

अतः, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग 3 की "ए आई डब्ल्यू" सिरीज टॉप के और अस्ट्रॉन ट्रेडमार्क वाले श्रृंखला संप्रदर्श वाले स्वतः सूचक गैर-स्वचालित इलेक्ट्रॉनिक प्लेटफार्म उपकरण के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया) जिसका विनिर्माण मैसर्स अस्ट्रॉन इंस्ट्रुमेंट्स, गला नं. 1, राफिक कंपाउंड एव रोड, ऑप. वायरलेस स्टेशन, दाहिसर (पूर्व) मुम्बई-68 द्वारा किया गया है और जिसे अनुमोदन किन्हुन आई. एन. डी. 09/95/67 समन्वित किया गया है, अनुमोदन प्रमाण पत्र प्रकाशित करना है।

माडल (आकृति देखिए) एक मध्यम यथार्थता (यथार्थता वर्ग 3) का प्लेटफार्म उपकरण है जिसकी अधिकतम क्षमता 100 किलोग्राम और न्यूनतम क्षमता 400 ग्राम है। सत्यापन मापमान अंतर (ई) 20 ग्राम है। इसमें एक टैयर युक्ति है जिसका व्यकलनात्मक प्रतिधारण टैयर प्रभाव 100 प्रतिशत है। आधार और प्लेटफार्म धात्विक है। आधार की वर्गीकरण का संकेतन का है जिसका पाठ 600x600 मिमी निर्मात है। प्रमाण उत्सर्जन डायोड संप्रदर्श तोल परिणाम उपदर्शित करता है। यह उपकरण 230 वॉल्ट, 50 हर्ट्ज के प्रत्यावर्ती धारा विद्युत प्रदाय पर प्रचालित होता है।

काले' केन्द्रिय सरकार, नया धाना की उपभोग (12) द्वारा प्रदत्त प्रविष्टियों को प्रयोग करने हुए, यह घोषणा करती है कि भारत के अनुमोदन के इस प्रमाण पत्र के अन्तर्गत उक्त विनिर्देशों द्वारा उक्त शिष्टान्त के अन्तर्गत और उक्त सामग्री से, जिसने अनुमोदित मादल का निर्माण किया गया है ध्वनिमित 200 किलोग्राम/50 ग्राम, 300 किलोग्राम/100 ग्राम, 500 किलोग्राम/100 ग्राम, 1000 किलोग्राम/200 ग्राम, 1500 किलोग्राम/500 ग्राम, 1800 किलोग्राम/500 ग्राम, और 3000 किलोग्राम/1000 ग्राम वाले सदस्य भेक, यथावत और उक्त शिष्टान्त के कार्यकरण वाले तोलन उपकरण में हैं।



(आकृति)

[फा.सं. डब्ल्यू एम 21(13)/94]

राजीव श्रीवास्तव, संयुक्त सचिव

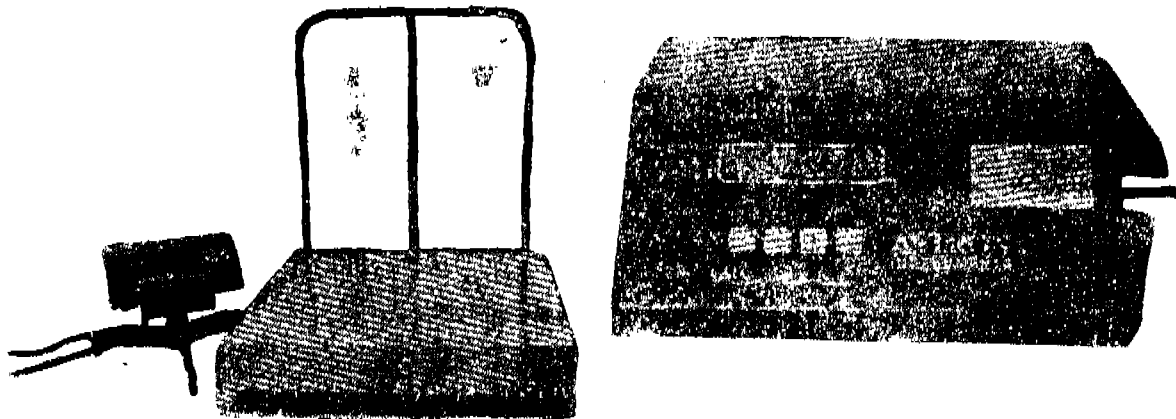
New Delhi, the 4th July, 1996

S.O. 2139.—Whereas the Central Government after considering the report submitted to it by the prescribed authority, (see figure below) is satisfied that the Model described in the said report is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the self-indicating non-automatic electronic platform instrument with digital display of type "AIW" series of class III medium accuracy and with the trade mark "ASTRON" (hereinafter called the model) manufactured by M/s. Astron Instruments, Gala No. 1, Rafic Compound, SV Road, Opp Wireless Stn, Dahisar (East) Bombay-68, and which is assigned the approval mark JND/09/95/67.

The model (see figure) is a medium accuracy (accuracy class III) platform instrument with a maximum capacity of 100 kg and minimum capacity of 400 g. The verification scale interval (e) is 20g. It has a tare device with a 100 percent subtractive retained tare effect. The base and the platform are metallic. The load receptor is of square cross-section of sides 600X600 millimetre. The LCD display indicates the weighing result. The instrument operates on 230 volts, 50 Hertz alternate current power supply.

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of similar makes, accuracy and performance of same series with 200kg/50g, 300kg/100g, 500kg/100g, 1000kg/200g, 1500kg/500g, 1800kg/500g, and 3000kg/1kg manufactured by the same manufacturer in accordance with the same principle and with the same materials with which, the approved model has been manufactured.



(Figure)

[File No. WM 21(13)/94]

RAJIV SRIVASTAVA, Jt. Secy.

नई दिल्ली, 4 जुलाई, 1996

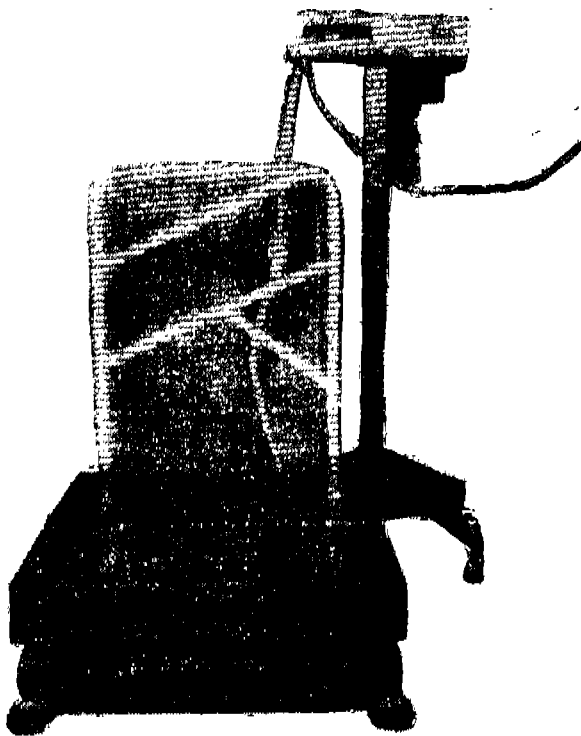
का.आ. 2110-केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उक्त प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे आकृति देखिए) बाट और माप मानक अधिनियम 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबन्धों के अन्तर्गत है और इस बात की संभावना है कि यह लगातार प्रयोग की अवधि में यथार्थता बनाये रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 36 उपधारा (7) और उपधारा 8 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग 3 की आई टीः एम सीरीज टाइप के स्वतः सूचक और स्वचालित प्लेटफार्म होलन उपकरण के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मेसर्स मैकेल सिस्टम एण्ड सर्विसेस, 105 निर्माण इंडस्ट्रियल इस्टेट, मिडिल रोड, मलाड (पश्चिम) मुम्बई-400064 द्वारा किया गया है और जिसे अनुमोदन किट्टा आई० एन० टी० 09/95/48 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करता है :

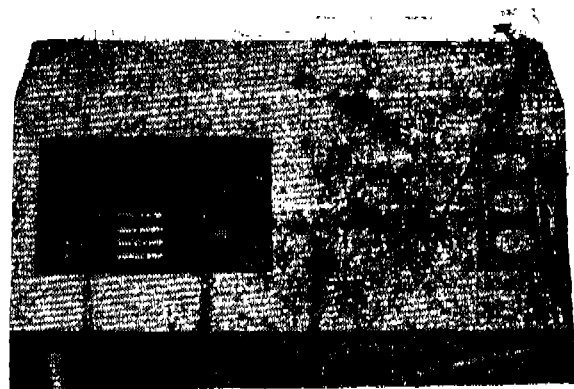
माडल (आकृति देखिए) एक मध्यम यथार्थता (यथार्थता वर्ग 3) का होलन उपकरण है जिसकी अधिकतम क्षमता 100 किलोग्राम

और न्यूनतम क्षमता 400 ग्राम है । संयोजन सामान्यतः प्रत्येक (ई) 20 ग्राम है । इसमें एक टैयर युक्ति है जिसका व्यक्तनात्मक प्रतिधारण टैयर प्रभाव 100 प्रतिशत है । आधार और प्लेटफार्म मृदु इस्पात के हैं । भारधारिता 600 × 600 मिमीमीटर आकार का है । प्रकाश उत्सर्जन डायोड संप्रसारण होल परिणाम उपदर्शित करता है । यह उपकरण 230 वोल्ट, 50 हर्ट्ज के प्रत्यावर्ती द्वारा विद्युत प्रदान पर प्रचालित होता है ।

अतः, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण पत्र के अन्तर्गत उक्त विनिर्माता द्वारा उक्त सिद्धान्त के अनुसार और इसी सामग्री में, जिसमें अनुमोदित माडल का विनिर्माण किया गया है, विनिर्मित (ई) माप वाले और 50 किलोग्राम/5-10 ग्राम, 60 किलोग्राम/10 ग्राम, 80 किलोग्राम/10-20 ग्राम, 100 किलोग्राम/10-20 ग्राम, 120 किलोग्राम/20 ग्राम, 150 किलोग्राम/20 ग्राम, 200 किलोग्राम/20-50 ग्राम, 250 किलोग्राम/50 ग्राम, 300 किलोग्राम/100 ग्राम, 400 किलोग्राम 50-100 ग्राम, 500 किलोग्राम/50-100 ग्राम, 600 किलोग्राम/100-200 ग्राम, 1 टन/100-200 ग्राम, 1.5 टन/200-500 ग्राम, 2 टन/200-500 ग्राम, 2.5 टन/500 ग्राम, 3 टन/500-1000 ग्राम, 4 टन/500-1000/ग्राम, और 5 टन/500-1000/ग्राम की अधिकतम क्षमता वाले और (ई) मान के समरूप मैके, यथार्थता और उक्त मीरीज के कार्यकरण वाले होलन उपकरण भी है ।



(आकृति)



(Figure)

[का.सं. डब्ल्यू. एम 21(31)/94]

राजेश शर्मा, सचिव

New Delhi, the 4th July, 1996

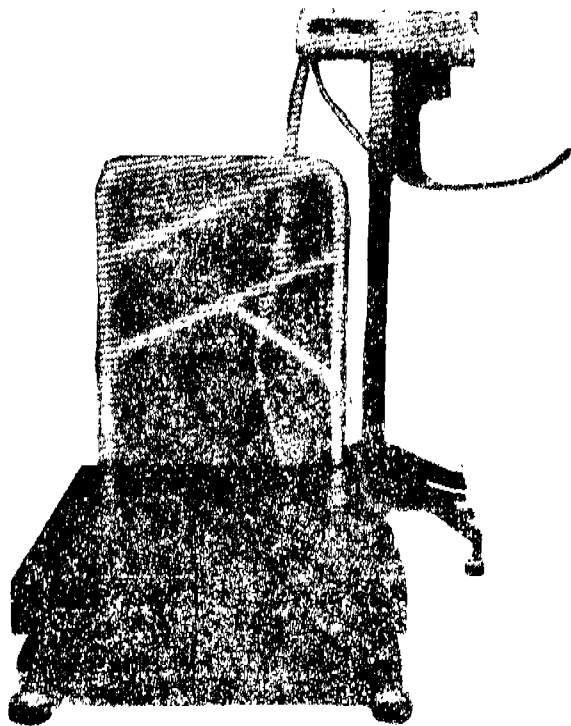
S.O. 2140.—Whereas the Central Government after considering the report submitted to it by the prescribed authority, (see figure below) is satisfied that the Model described in the said report is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said

model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

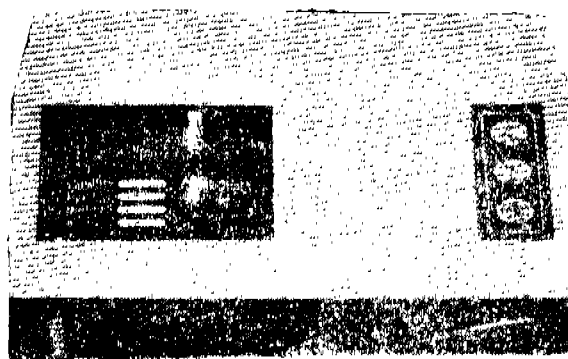
Now therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the self-indicating non-automatic

platform weighing instrument of type ITM series of class III Medium accuracy (hereinafter called the model) manufactured by M/s. Mechel Systems and Services, 105, Nandl. Indl. Estate, Linking Road, Malad (W), Bombay-400061, and which is assigned the approval mark IND/09/95/43.

The model (see figure) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 100 kg and minimum capacity of 400 gram. The verification scale interval (e) is 20 gram. It has a tare device with a 100 per cent subtractive retained the effect. The load receptor is of square section of size 600×600 millimetres. The LED display indicates the weighing result. The instrument operates on 230 volts, 50 Hertz alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of similar make, accuracy and performance of same series with 'e' value and maximum capacity of 50kg/5-10g, 60kg/10g, 80kg/10-20g, 100kg/10-20g, 120kg/20g, 150kg/20, 200kg/20-50g, 250kg/50g, 300kg/100g, 400kg/50-100g, 500kg/50-100g, 600kg/100-200g, 1t/100-200g, 1.5t/200-500g, 2t/200-500g, 2.5t/500g, 3t/500-1000g, 4t 500-1000g and 5t/500-1000g manufactured by the same manufacturer in accordance with the same principle and with the same materials with which, the approved model has been manufactured.



(File No. WM 21(31/94)

RAJIV SRIVASTAVA, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 9 जुलाई, 1996

का.सा. 2141—चूंकि केन्द्रीय सरकार को यह प्रतीत होता है कि जनहित में यह आवश्यक है कि "टी" पोइन्ट गुजरात खारडिन्न से गुजरात ओरगनाइज्ड लि. गुजरात राज्य तक पेट्रोलियम और प्राकृतिक गैस के परिवहन के लिये पाइपलाइन गैस अपारिटी ऑफ इंडिया लिमिटेड द्वारा बिछाई जानी चाहिये।

और चूंकि यह प्रतीत होता है कि ऐसी लाईन को बिछाने के प्रयोजन के लिये एतदुपाय अन्तर्गामी में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः, अब, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते

हुए केन्द्रीय सरकार उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित करती है।

वर्णित कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उक्त भूमि के सीधे पाइपलाइन बिछाने के लिये आक्षेप सभ्य प्राधिकरण, गैस अपारिटी आफ इंडिया लिमिटेड, वर्णन बिडिंग, द्वितीय तब, आर.सी. दन्त रोड, बड़ीवा, को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति निमिषिद्धतः यह भी कथन करेगा कि क्या वह चाहता है कि उसकी गुंताई व्यक्तिगत हो या किन्ही बिधि व्यवसायी की मार्फत।

राजपर्व
“टी” प्वाइंट आर गुजरात गार्डियन से गुजरात
बोरोसिल लि.

राज्य : गुजरात	तालुका : अंकलेश्वर	जिला : भद्रच
गाँव	क्रम सं. ब्लॉक सं.	परिया हेक्टेयर आरे सेंटीआरे
करारवल	91	00 08 44

[सं. एल-14016/19/94-जी पी]

अर्धेन्दु सैन, निदेशक

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 9th July, 1996

S.O. 2141.—whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum and Natural Gas from “T” Point Gujarat Guardian to Gujarat Borosil Ltd. in Gujarat State pipeline should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interest in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd, Darpan Building, Hind Floor, R.C. Dutt Road, Baroda.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Gas Pipeline from “T” Point Gujarat Guardian to Gujarat Borosil Ltd.

State : Gujarat	Taluka : Ankleshwer	Dist. : Bharuch
Village	Sr. No. Block No.	Area Hec- tare Arc Cent- care
Kararwel	91	00 08 44

[No. L-14016/19/94 G.P.]

ARDHENDU SEN, Director

नई दिल्ली, 9 जुलाई, 1996

का आ. 2142—भारत के राजपत्र दिनांक 1-8-95 के भाग 2 खंड 3, उपखंड (ii) में पेट्रोलियम और प्राकृतिक गैस मंत्रालय, भारत सरकार के का.आ. संख्या 694(ई) 19-7-95 से पेट्रोलियम और

खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उपधारा (1) के अन्तर्गत प्रकाशित अधिसूचना जो कि ग्राम कीताली, तालुका अंकलेश्वर, जिला भद्रच के संबंध में था, को निम्नानुसार पढ़ा जाये—

राजपत्र के अनुसार		निम्न संशोधन के अनुसार पढ़ा जाये	
क्रम सं.	सर्वे सं.	क्षेत्रफल हेक्टेयर में	सर्वे सं. क्षेत्रफल हेक्टेयर में
24	516	0-07-28	596 0-07-28
14	535	0-11-44	835 0-11-44

[सं. एल-14016/19/94-जी पी]

अर्धेन्दु सैन, निदेशक

CORRIGENDUM

New Delhi, the 9th July 1996

S.O. 2142.—In the Gazette of India Ministry of Petroleum and Natural Gas S.O. No. 694 (E) dtd. 19-7-95 published on 1-8-95 under section (i) of section 6 of the Petroleum and Mineral Pipeline (Acquisition of Right of users in land) Act, 1962 (50 of 1962) in respect of Village-Jitali, Taluka-Ankleshwer, District-Bharuch be read as follows:

As per Gazette		Be read as corrected below		
Sr. No.	Survey No.	Area in Hectare	Survey No.	Area in Hectare
1	2	3	4	5
24	516	0-07-28	596	0-07-28
14	535	0-11-44	835	0-11-44

[No. L-14016/19/94-G.P.]

ARDHENDU SEN, Director

संशोधन

नई दिल्ली, 9 जुलाई, 1996

का.आ. 2143—भारत के राजपत्र दिनांक 1-8-95 के भाग 2 खंड 3, उपखंड (ii) में पेट्रोलियम और प्राकृतिक गैस मंत्रालय, भारत सरकार के का.आ. संख्या 693(ई) 19-7-95 से पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उपधारा (1) के अन्तर्गत प्रकाशित अधिसूचना जो कि ग्राम कटारवेल, तालुका-अंकलेश्वर, जिला भद्रच के संबंध में था, को निम्नानुसार पढ़ा जाये—

राजपत्र के अनुसार		निम्न संशोधन के अनुसार पढ़ा जाये		
ब				
क्रम सं.	सर्वे सं.	क्षेत्रफल हेक्टेयर में	सर्वे सं.	क्षेत्रफल हेक्टेयर में
10	90	0-34-84	90	0-26-40

[सं. एल-14016/19/94-जी पी]

अर्धेन्दु सैन, निदेशक

CORRIGENDUM

New Delhi, the 9th July, 1996

New Delhi, the 9th July, 1996

S.O. 2143, -In the Gazette of India Ministry of Petroleum and Natural Gas S.O. No. 693 (E) dtd. 19-7-95 published on 1-8-95 under section (i) section 6 of the Petroleum and Mineral Pipeline (Acquisition of Right of users in land) Act, 1962 (50 of 1962) in respect of Village-Karavvel, Taluka-Ankleshwar, District-Bharuch be read as follows: -

As per Gazette		Be read as corrected below	
Sr. No.	Survey No.	Area in Hectare	Survey No. Area in Hectare
10	90	0-24-84	90 0-26-40

[No. L-14016/19/94-G.P.]

ARDHENDU SEN, Director

नई दिल्ली, 9 जुलाई, 1996

का.आ. 2144.—चूंकि केन्द्रीय सरकार को यह प्रतीत होता है कि जनहित में यह आवश्यक है कि सी.पी.एफ. गन्धार से एन.पी.जी. प्वाण्ट गन्धार गुजरात राज्य तक पेट्रोलियम और प्राकृतिक गैस के परिवहन के लिये पाईपलाइन गैस अथॉरिटी आफ इंडिया लिमिटेड द्वारा विचार्य जानी चाहिये।

और चूंकि यह प्रतीत होता है कि ऐसी लाइन को बिछाने के प्रयोजन के लिये एतदुपाय्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब, पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित करती है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाईपलाइन बिछाने के लिये आशेष सक्षम प्राधिकारी, गैस अथॉरिटी आफ इंडिया लिमिटेड वर्ण विन्डिंग, आर.सी. वल्ल रोड, बडोदरा-5 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह चाहता है कि उसकी अनुसूची व्यक्तिगत हो या किसी विशिष्ट व्यवसायी की मार्फत।

अनुसूची

सी.पी. एफ. गन्धार से एन. पी. जी. प्वाण्ट गन्धार पाईप लाईन

राज्य— गुजरात		जिल्हा— भरुच		तालुका— वाशिरा	
गांव	सर्वेक्षण संख्या/ उड संख्या	क्षेत्रफल			
		हेक्टेयर	एयर	मॅटीयर	
खांचवेल	1178	0—09—72			
		0—09—72			

[सं. एन-14016/1/95-जी.पी.]

अर्धेन्दु सेन, निदेशक

S.O. 2144.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum and Natural Gas from CPF Gandhar to L.P.G. Plant Gandhar in Gujarat State pipeline should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interest in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd, Darpan Building, R.C. Dutt Road, Vadodara-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from CPF Gandhar to L.P.G Plant Gandhar		State : Gujarat		Dist. : Bharuch		Taluka : Vagra	
Village	Sr. No. Block No.	Area					
		Hect.	Are	Cent.			
Chanchvel	1178	0	09	72			
		0	09	72			

[No. L-14016/1/93-G.P.]

ARDHENDU SEN, Director

नई दिल्ली, 9 जुलाई, 1996

का.आ. 2115.—चूंकि केन्द्रीय सरकार को यह प्रतीत होता है कि जनहित में यह आवश्यक है कि सी.पी.एफ. गन्धार से एन.पी.जी. प्वाण्ट गन्धार गुजरात राज्य तक पेट्रोलियम और प्राकृतिक गैस के परिवहन के लिये पाईपलाइन गैस अथॉरिटी आफ इंडिया लिमिटेड द्वारा विचार्य जानी चाहिये।

और चूंकि यह प्रतीत होता है कि ऐसी लाइन को बिछाने के प्रयोजन के लिये एतदुपाय्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब, पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित करती है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाईपलाइन बिछाने के लिये आशेष सक्षम प्राधिकारी, गैस अथॉरिटी आफ इंडिया लिमिटेड वर्ण विन्डिंग, आर.सी. वल्ल रोड, बडोदरा-5 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह चाहता है कि उसको सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

सी.पी. एफ. गन्धार से एन.पी.जी. प्लांट गन्धार पाईप लाइन

राज्य—गुजरात	जिला—भरुच	तालुका—प्रासोड			
गांव सर्वेक्षण संख्या/ खंड संख्या	क्षेत्रफल				
	हेक्टेयर	एयर	सेंटीयर		
रोजा टकारिया	909	0-04-68			
		0-04-68			

[स. एल-14016/1/93-जी.पी.]
अर्धेन्दु सेन, निदेशक

New Delhi, the 9th July 1996

S.O. 2145- Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum and Natural Gas from CPF Gandhar to L.P.G. Plant Gandhar in Gujarat State pipeline should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interest in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd, Darpan Building, R.C. Dutt Road, Vadodara-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from CPF Gandhar to L.P.G. Plant Gandhar
Date : Gujarat Dist : Bharuch Taluka : Amod

Village	Sr. No. Block No.	Area		
		Hect.	Are	Cent.
Rozatankaria	909	0	04	68
		0	04	68

[No. L- 14016/1/93- G.P.]
ARDHENDU SEN, Director

नई दिल्ली, 9 जुलाई 1996

का० आ० 2145—चूंकि केन्द्रीय सरकार को यह प्रतीत होता है कि इतना ही यह आवश्यक है कि एन पी जी प्लांट गन्धार से एम टि पी जी जानीर गुजरात राज्य तक पेट्रोलियम और प्राकृतिक गैस के परिवहन के लिए पाईपलाइन से आधारेण्डि: आक इंडिया लिमिटेड द्वारा बिछाई जानी: शक्ति है।

और चूंकि यह प्रतीत होता है कि जेर्स लार्ड्स की बिछाने के लिए प्रयोजन के लिए एनट्रपबड अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः, अब, पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित करती है।

यह कि उक्त भूमि में हितबद्ध कोई व्यक्ति उन भूमि के ताने पाईपलाइन बिछाने के लिये आलेख मक्षम प्राधिकारी, गैस अथॉरिटी आफ इंडिया लिमिटेड, दपेण बिल्डिंग, आर.सी. दत्त रोड, बड़ोदरा-5 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह चाहता है कि उसको सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

एन.पी.जी. प्लांट गन्धार से एन टो पी जी जानीर पाईप लाइन

राज्य—गुजरात	जिला—भरुच	तालुका—भरुच			
गांव	सर्वेक्षण संख्या	क्षेत्रफल			
खंड संख्या		हेक्टेयर	एयर	सेंटीयर	
जानीर	152		0-04-15		
	453		0-19-35		
	455		0-15-48		
४	156		0-11-79		
			00-50-77		

[स. एल-14016/1/93-जी.पी.]

अर्धेन्दु सेन, निदेशक

New Delhi, the 9th July, 1996

S.O. 2146—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum and Natural Gas from LPG Plant Gandhar to N.T.P.C.-Zanor in Gujarat State pipeline should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act, 1962

(50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building, R.C. Dutt Road, Vadodra-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from L.P.G. Plant Gandhar to N.T.P.C. Zanor

Village	Sr. No. Block No.	Area		
		Hect.	Are	Cent.
Zanor	452	0	04	15
	453	0	19	35
	455	0	15	48
	456	0	11	79
		0	50	77

[No. I.—14016/1/93—G.P.]

ARDHENDU SEN, Director

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

आदेश

नई दिल्ली, 14 जून, 1996

का. आ. 2147.—काबुल विश्वविद्यालय, अफगानिस्तान द्वारा प्रदान की गई एम. डी. आयुर्विज्ञान अर्हता भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) के प्रयोजन के लिए मान्यताप्राप्त आयुर्विज्ञान अर्हता है;

और डा. भगत सिंह हकीमजादा जिसके पास उक्त अर्हता है, तत्समय पूर्ण कार्य के प्रयोजनार्थ गुरु अर्जुन देव निःशुल्क औपचारिक, के-46, न्यू महावीर नगर, नई दिल्ली में मलगत है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 14 की उपधारा (1) के परन्तुक के खंड (ग) के अनुसरण में,—

- (i) इस अधिसूचना के जारी करने की तारीख से दो वर्ष की अवधि को, या
- (ii) उस अवधि को, जिसके दौरान डा. भगत सिंह हकीमजादा, गुरु अर्जुन देव निःशुल्क औपचारिक, के-46, न्यू महावीर नगर, नई दिल्ली में मलगत हैं,

इनमें से जो भी अवधि लघुतर हो, उस अवधि के रूप में विनिर्दिष्ट करती है तब तक पूर्वोक्त डा. द्वारा किया गया चिकित्सा व्यवसाय सीमित होगा।

[सं. बी.—11016(4)96—एम.ई. (यूजी)]

एस. के. मिश्रा, डेस्क अधिकारी

MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health)

ORDER

New Delhi, the 24th June, 1996

S.O. —Whereas the medical qualification M. D. granted by University of Kabul, Afghanistan is a recognised medical qualification for the purpose of Indian Medical Council Act, 1956 (192 of 1956);

And whereas Dr. Bhagat Singh Hakimzada who possesses the said qualification is for the time being attached to the Guru Arjun Dev Free Dispensary, K-46, Near Mahabir Nagar, New Delhi for the purpose of charitable work;

Now, therefore, in pursuance of clause (c) of the proviso to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies :—

- (i) a period of two years from the date of issue of this notification, or
- (ii) the period during which Dr. Bhagat Singh Hakimzada is attached to the Guru Arjun Dev Free Dispensary, K-46, New Mahabir Nagar, New Delhi.

whichever is shorter as the period for which the medical practice by the aforesaid doctor shall be limited.

[No. V-11016/1/96 ME/UG]

S. K. MISRA, Desk Officer

नागर विमानन मंत्रालय

नई दिल्ली, 5 जुलाई, 1996

का. आ. 2148.—भारतीय विमानपत्तन प्राधिकरण अधिनियम, 1994 (1994 का 55) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा इंडियन एयरलाइन्स लिमिटेड के प्रबंध निदेशक को भारतीय विमानपत्तन प्राधिकरण के निदेशक-मंडल के अंशकालीन सदस्य के रूप में तुरन्त प्रभाव से नियुक्त करती है।

[संख्या एवी- 24015/005/94—बी. बी.]

पी. एस. राधाकृष्ण, अवसर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 5th July, 1996

S.O. 2148.—In exercise of the powers conferred by Section 3 of the Airports Authority of India Act, 1994 (55 of 1994), the Central Government hereby appoints the Managing Director, Indian Airlines Limited as Part-time Member of the Board of Directors of Airports Authority of India, with immediate effect.

[AV-24015/005/94-VB]

P. S. RADHAKRISHNA, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 26 जून, 1996

का. आ. 2149.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रेलवे मेल सर्विस के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-6-96 को प्राप्त हुआ था।

[सं. एल - 40012/208/94 - आई आर (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 26th June, 1996

S.O. 2149.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of R.M.S. and their workman, which was received by the Central Government on 13-6-96.

[No. L-40012/208/94-IR(DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 9 of 1996

In the matter of dispute between :

Shri Ramesh Singh,
C/o Sri M. Sakeel,
1, Abdul Aziz Road,
Lucknow-226 020

AND

Superintendent,
R.M.S.,
Bhartiya Dak Vibhag,
B. L. Division,
Barcilly-243 003.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its notification No. L-40012/208 94-IR. (D.U.) dated 27-12-95, has referred the following dispute for adjudication to this Tribunal—

“Whether the action of the Supdt. RMS, ‘BL’ Division Barcilly in terminating the services of Shri Ramesh Singh EDA substitute w.e.f. 7-7-89 is legal and justified? If not, what relief the workman is entitled to?”

2. In spite of repeated opportunities, having been given to the concerned workman he neither filed any claim statement nor put in appearance in the Tribunal. It appears that he is not interested in the case.

3. Hence my answer to the reference is in the affirmative and against the concerned workman for want of proof. He is not entitled to any relief.

4. Reference is answered accordingly.

28-5-96

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 26 जून, 1996

का. आ. 2150.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-6-96 को प्राप्त हुआ था।

[सं. एल - 40012/71/91 आई आर (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 26th June, 1996

S.O. 2150.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 13-6-96.

[No. L-40012/71/91-IR(DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 189 of 1991

In the matter of dispute between :

Rama Shanker Yadav,
C/o N. C. Pandey,
2-323, GTV Nagar Kareli,
Allahabad.

AND

Assistant Engineer,
Telecom (Cables)
Varanasi.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-40012/71/91-D-2(8) dated 19-11-91, has referred the following dispute for adjudication to this Tribunal—

“Whether the action of Assistant Engineer (Cables) Telecom Varanasi in terminating the services of Sri Ramashankar Yadav son of Sri Satyadev Yadav w.e.f. 1-4-89 is justified? If not, what relief he is entitled to and from what date?”

2. The concerned workman Ramashankar Yadav has alleged that he was engaged as casual labour on 1-12-82 with the opposite party Telecom Department at Azamgarh. Thereafter he worked at Bhadohi. Lastly he worked at Varanasi where his services were terminated on 31-3-89. As such he had completed more than 240 days, in a calendar year preceding

the date of termination. The same is bad in law because of non compliance of provision of Section 25F Industrial Disputes Act, 1947.

3. The opposite party has filed reply in which it is admitted that concerned workman was originally engaged at Azamgarh on 2-12-82. Later on when the work came to an end. He went to join at Bhadohi and subsequently at Varanasi in short gap arrangement. It is denied that he continuously worked during this period. When work at Varanasi came to an end he was asked to go back at Azamgarh. His services at no point have been terminated hence this reference is bad.

4. The concerned workman has filed rejoinder in which nothing new has been said.

5. Now the question which calls for consideration is as to whether concerned workman had completed atleast for more than 240 days in a year preceding his termination. The date of termination is 1-4-89. The concerned workman has filed a certificate from Assistant Engineer (Cables), Varanasi dt. 9-4-89 which shows that from March 88 to February 89 he had worked for 306 days. This certificate is proved by the statement of concerned workman Ramashanker Yadav of which there is no rebuttal. Hence, it is fully established that the concerned workman had completed for more than 240 days preceding his termination.

5. Second contention which need consideration is whether the concerned workman was ceased. The interpretation of the opposite party is not tenable. In my opinion, the asking of Assistant Engineer, Varanasi to go to Azamgarh would amount to denial of work which in turn would certainly amount to retrenchment. Hence it is a case of retrenchment. Admittedly no notice pay or retrenchment compensation was given, hence there has been blanket breach of section 25F of I.D. Act.

6. Accordingly my answer is that termination of the concerned workman was not justified. Hence he is entitled for reinstatement with back wages at the rate at which he was being paid at the time of termination.

27-5-96

Sd/-

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 26 जून, 1996

का. आ. 2151.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्ग में, केन्द्रीय सरकार भारतीय पुरातत्व विभाग के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-6-96 को प्राप्त हुआ था।

[सं. एल - 41012/276/90 - आई आर (डीयू)]

पी. जे. माईकल, डैस्क अधिकारी

New Delhi, the 26th June, 1996

S.O. 2151.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Archaeological Survey of India and their workman, which was received by the Central Government on 13-6-96.

[No. L-41012/276/90-IR(DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 162 of 1991

Industrial Dispute between :

Sri Omkar Singh,
C/o Surrender Singh,
2/236, Nammair Agra.

AND

Superintending Archaeologist,
Archaeological Survey of India,
22, The Mall,
Agra.

AWARD

1. Central Government Ministry of Labour vide its notification number L-41012/276/90-I.R. (D.U.) dated 25-9-91 has referred the following dispute for adjudication to this Tribunal—

“Whether the Superintending Archaeologist, Archaeological Survey of India, Agra, was justified in terminating the services of Sri Omkar Singh w.e.f. 20-6-89 ? If not, to what relief the workman concerned is entitled ?”

It is needless to give full facts of the case as on 13-5-95 Sri Surrender Singh authorised representative of the concerned workman has submitted before the Tribunal that he had no instruction from the concerned workman. In view of this the reference is answered in affirmative holding that the concerned workman is not entitled for any relief for want of proof.

Reference is answered accordingly.

Sd/-

24-5-96

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 26 जून, 1996

का. आ. 2152.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्ग में, केन्द्रीय सरकार कन्टोनमेंट बोर्ड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-6-96 को प्राप्त हुआ था।

[सं. एल - 13012/1/92 - आई आर (डीयू)]

पी. जे. माईकल, डैस्क अधिकारी

New Delhi, the 26th June, 1996

S.O. 2152.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Cantonment Board and their workman, which was received by the Central Government on 13-6-96.

[No. L-13012/1/92-IR(DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 3 of 1993

In the matter of dispute between :

Abdul Mazeed Khan,
C/o M. Lal III-A/310,
Ashok Nagar, Kanpur.

AND

Executive Officer,
Cantonment Board,
Tagore Road, Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. 1-13012/1/92-I.R. (D.U.) dt. 7-1-1993 has referred the following dispute for adjudication to this Tribunal :—

Kya Executive Officer, Cantt. Board, Kanpur ke dwara Bhootpurva Shramik Sri Abdul Mazeed Khan ko dinank 28-10-89 se nishkashit karna tatha sewa ka me unhe saman wetan na dena pyoyochit hai ? Yadi nahi to sambandhit karmkar kis anutosh ka haadar hai ?

2. The concerned workman Abdul Mazeed in his claim statement has alleged that his name was sponsored by employment exchange Kanpur to the opposite party Cantonment Board Kanpur for engagement. Later on he was called for interview and was also selected. He was given assignment of labour by the opposite party and was deputed to work as helper to the electrician whereas in record he was treated as labour. He was a daily rated employee. No appointment letter was given to him. In 1985 he worked for 198 days, for 139 days in 1986, for 222 days in 1987, for 223 days in 1988 and for 148 days in 1989. His services were terminated on 28-10-89 without complying with the provisions of section 25F I.D. Act. Further his colleagues like Gagan Upadhyay, Om Prakash, Phool Chand, Shiv Prasad and Vijay Upadhyaya were confirmed. After his termination Atmaram and Uttam Chand were engaged but no opportunity was given to him, hence there has been breach of section 25H of I.D. Act.

3. The opposite party has filed a very lengthy written statement. Substance of the objection of the opposite party is that the opposite party is not an industry. Further Abdul Mazeed is not a workman. Hence, reference is bad. It is denied that the concerned workman had ever completed 240 days in a calendar year. During the breaks given in each year the concerned workman himself had absented. Ultimately he abandoned the job since 28th October, 1989. Nothing has been said about non-compliance of Section 25H of I.D. Act.

4. In the rejoinder, the factual pleas raised in the claim statement has been rebutted.

5. In support of his claim the concerned workman has adduced his evidence as Abdul Majid W.W. 1. Further he has filed Ext. W-1 the interview letter. In rebuttal Kuber Singh Junior Engineer of the opposite party has been examined. Further Ext. M-1 to M-11 extracts of muster roll from October, 1988 to September, 1989 have been filed.

6. As regards first two pleas regarding Cantonment Board not being an industry and Abdul Majid being not the workman. Reference may be made to the case of Cantonment Board Amballa Cantt. versus State of Punjab 1961(2) F.L.R. 298. It was held that if certain activities of the Cantonment Board which are of quasi-industrial nature like lighting etc., the Cantonment Board will be treated as industry and its worker will come in the definition of workman as envisaged under Sec. 2(s) of I.D. Act. From the evidence of Kuber Singh, Junior Engineer it is evident that concerned workman was engaged in Cantonment Board for lighting.

Hence in view of above Authority I have no hesitation in holding that opposite party is an industry and Abdul Majid is a workman. As such both these pleas are over-ruled.

7. Although Kuber Singh Junior Engineer has been examined but he has nowhere stated that the concerned workman had abandoned the job w.e.f. 28th October, 1989 or he had abstained himself during the period. He is said to have not worked. In the absence of any such evidence this plea of opposite party is over-ruled.

8. Now it may be examined if the concerned workman had completed 240 days or more in any calendar year before the date of retrenchment. In the year 1989 he claims to have worked for 148 days. Even if we add 52 Sundays and other holidays it will not reach the desired figure of 240 days. It may be mentioned that in this regard the management had also filed Ext. M-1 to M-72 copies of muster roll from October, 1988 to September, 1989. Out of this Ext. 7 and Ext. 8 relating to months of April and May, 1989 relate to Nisar Ali. This does not relate to concerned workman. As it does not give complete figure of the working days no help can be derived by the opposite party. As regards the year 1988 according to claim statement the concerned workman had worked for 223 days. There is evidence of Abdul Majid in support of this claim. He has not been cross-examined. Further Kuber Singh has also not denied it on oath. Apart from this the management has also not filed the copies of muster roll in this regard. In the absence of muster roll of this period adverse inference should be drawn against the management. From all this I arrive at the conclusion that concerned workman had worked for 223 days in 1988. When we add 52 Sundays it will cross the desired figure of 240 days.

9. Consequently it is held that atleast in the year 1988 the concerned workman had completed more than 240 days and as such he was entitled for benefit of Section 25F I.D. Act. Certainly compliance of Section 25F I.D. Act has not been made by the opposite party, hence the termination is bad on this score.

10. There is no evidence worth the name on the side of the concerned workman to show that juniors to the concerned workman were retained when he was retrenched. Hence plea of breach of Section 25G of I.D. Act fails.

11. As regards plea of Section 25H of I.D. Act there is again un rebutted evidence of Abdul Majid that Atma Ram and Uttam Chand were retained after his retrenchment but he was not given opportunity. Kuber Singh on the side of the management has not denied. Hence I accept the version of the workman and hold that subsequent to retrenchment of Abdul Majid others like Atma Ram and Uttam Chand were engaged. Hence there has been breach of Section 25H of I.D. Act.

12. In view of above discussion it is held that termination of the concerned workman w.e.f. 28th October, 1989 is bad in law. Hence he will be entitled for reinstatement with back wages from the date of reference at the rate at which he was drawing wages at the time of retrenchment. Concerned workman shall also get Rs. 100 as costs from the opposite party.

B. K. SRIVASTAVA, Presiding Officer

Dated : 9-5-1996.

नई दिल्ली, 27 जून, 1996

का. आ. 2153.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मध्य रेलवे के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट

को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-6-96 को प्राप्त हुआ था।

No. L-41012/41/92-IR(DU) dated 29-7-93, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of DRM, Central Railway, Jabalpur in terminating the services of Shri Chanderbhan Singh, Ex-casual labour w.e.f. 19-11-89 is justified? If not, what relief he is entitled to?"

2. Case of the workman is that he was appointed as a Casual Labour on daily rated basis and he has continuously worked from 19-8-85 to 27-9-89 and his services were illegally terminated with effect from 19-11-89. Workman has claimed re-instatement with full back wages.

3. Case of the management is that the workman was employed as a casual labour for temporary work; that he has voluntarily left the service; that the workman unauthorisedly absent from 28-9-89 and the workman is facing the charge-sheet for absenteeism.

4. Workman has not filed any document and he remained absent. Management has prayed to close the case. It appears that the workman is not interested in pursuing the case. Consequently, no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2154.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम रेलवे के प्रबन्धन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—2 मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-6-96 को प्राप्त हुआ था।

[संख्या एल-41011/23/91-आई. आर. (डी. यू.)]
पी० जे० माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2154.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure in the industrial dispute between the employers in relation to the management of Western Railway and their workmen, which was received by the Central Government on 27-6-1996.

[No. L-41011/23/91-IR (DU)]
P. J. MICHAEL, Desk Officer

[संख्या एल-41012/41/92-आईआर (डीयू)]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2153.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Railway and their workmen, which was received by the Central Government on the 27-6-1996.

[No. L-41012/41/92-IR(DU)]
P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Reference No. CGIT/LC(R)/(148)/1993

BETWEEN

Shri Chandra Bhan Singh S/o Shri Shripal Singh, Gram : Jagdishpur, Post Birgawan Via Sarai Bakewar, Teh : Bindki, District Fatehpur (U.P.).

AND

The Asstt. Manager, Central Railway, Sagar and the Divisional Railway Manager, Central Railway, Jabalpur (M.P.).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman—Shri H. B. Srivastava,
Advocate.

For Management—Shri Sanjay Yadav,
Advocate.

INDUSTRY : Railway DISTRICT : Sagar (MP)

AWARD

Dated : 30th April, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT 2/11 of 1992

Employers in relation to the management of Western
Railway Bombay

AND

Their Workmen.

APPEARANCES :

For the Employer—Shri V. Narayanan, Advocate.

For the Workmen—Shri M. B. Anchan Advocate

Mumbai, the 14th June, 1996

AWARD

The Government of India, Ministry of Labour by its Order No. L-41011/23/191-IR (DU) dated 24-2-92, had referred to the following industrial dispute for adjudication.

"Whether the action of the management of Western Railway, Bombay in not communicating poor CR to the workman (Shri Dukhi B., Head Train Examiner (HTXR) working at Bombay Central and deprived from future promotion prospects is justified? If not, what relief the workman concerned is entitled to?"

2. Paschim Railway Karamchari Parishad filed a statement of claim at Exhibit-2. It is contended that the worker Dukhi was wrongly deprived of his promotions. It is averred that the representations made by the worker were considered properly. It is averred that the workers confidential report were bad in the year 1979-80 and not for the latter period. It is averred that he juniors of the worker were wrongly promoted and the worker is entitled to the promotions and other reliefs.

3. The management resisted the claim by the written statement Exhibit-3. It is averred that the workman was not eligible for promotions as contended in the statement of claim. It is denied that his confidential report was bad only for the year 1979-80. It is averred that the juniors were not promoted ignoring the claim of the worker. It is averred that the promotions were given as per rules. It is submitted that the workman has no cause of action to raise the dispute.

4. It is reported that the workman expired. His legal representatives were not brought on the record. Today the union filed a purshis (Exhibit-9) informing the court that the legal representative of the workman had not contacted the union. It is therefore, not possible for them to proceed with the matter and it may be disposed off. I may mention here that sufficient opportunity was given to the union for bringing the legal representative of the worker on the record. But ultimately the present purshis is filed. One P. G. Nair (Exhibit-8) Asstt. Personnel Officer filed this affidavit by way of Examination-in-Chief. As there is withdrawal of the reference there is no cross-examination of Nair. Under such circumstances I pass the following order :

ORDER

1. The reference is disposed off for want of prosecution.
2. The action of the management of Western Railway, Bombay in not communicating poor CR to the workman (Shri Dukhi B. Head Train Examiner (HTXR) working at Bombay Central) and deprived from future promotion prospects is justified.

Dated : 14-6-1996

S. B. PANSE, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2155.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीका, रेलवे इलेक्ट्रिफिकेशन प्रोजेक्ट के प्रवर्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, संबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल - 40012/118/89 - डी 2 (बी)]

पी. जे. माईकल, डैस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2155.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom, Railway Electrification Project, and their workman, which was received by the Central Government on 25-6-1996.

[No. L-40012/118/89-D.II (B)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC (R) (124)/1990

BETWEEN

Shri Ramesh Shivhare S/o Shri Mahadev Prasad, Gram
and Post Dahua, Teh. Multri, District Betul (MP).

AND

The Director, Telecom, Railway Electrification Project,
E-3/15, Arera Colony, Bhopal (MP)-462016.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—In person.

For Management—Shri B. Da'Silva, Advocate.

INDUSTRY : Rly. Electrification DISTRICT : Bhopal
(MP).

AWARD

Dated, the 23rd April, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-40012/118/89-D.II (B) dated 2-5-1990, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of the Director, Telecom, Railway Electrification Project, Bhopal in not providing employment to Shri Ramesh Shivhare S/o Shri Mahadev Prasad w.e.f. 30-4-88 is justified? If not, to what relief the workman is entitled to?"

2. Reference was received on 14-5-90 and the workman appeared on 5-7-90 and prayed for filing the statement of claim. Subsequently, the workman appeared on many hearing, but the statement of claim was not filed by the workman. The management has alleged that the

workman was engaged on casual basis for temporary project. The temporary project was winded up and the services of the workman was terminated for non availability of work. The workman has failed to show that the action of the management in not providing the employment to the workman was unjustified. Consequently, reference is answered against the workman. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2156.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विहकल फैक्ट्री के प्रबन्धन के संबंध विद्योजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. पत्र - 14012/1/90 - आई आर (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2156.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Vehicle Factory and their workmen, which was received by the Central Government on 25-6-1996.

[No. L-14012/1/90-IR (DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC (R)(193)/1990

BETWEEN

Shri Sukhrum S/o Govind Prasad C/o Shri S. L. Choudhary, President SC/ST Defence Employees Council, 1283, Bharbadevi Ka Mandir Shilarnai Ghanapur Jabalpur (MP)-482001.

AND

The General Manager, Vehicle Factory Jabalpur (MP)-482009.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri Kamlesh Dutta, Advocate.

For Management—Shri N. P. Garg.

INDUSTRY : Vehicle Factory DISTRICT : Jabalpur (MP).

AWARD

Dated, the 2nd April, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-14012/1/90-IR (DU) dated 26-9-90, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of Vehicle Factory, Jabalpur (M.P.) in terminating the services of Shri Sukhrum Ex.

T. No. 05627/HT/85/Vehicle Factory, Jabalpur Labour 'B' w.e.f. 5-11-79 is justified ? If not, what relief the concerned workman is entitled to and from what date ?"

2. Admitted facts of the case are that the workman, Sukh Ram, was working in Vehicle Factory, Jabalpur, as Labour 'B' in HT Section and he was appointed in the year 1973; that the charge sheet dated 7-5-78 was issued against the workman on the imputation of his unauthorised absence from 12-3-78; that Shri D. L. Mitra was appointed as the Enquiry Officer and he was removed from the service with effect from 5-11-79.

3. The case of the workman is that the Enquiry Officer has acted illegally by considering his statement that he was absent on account of his illness as a confession and the admission of his guilt; that the Enquiry Officer has not considered the medical certificate of the workman; that the Enquiry Officer has not afforded the opportunity to the workman to produce the defence witnesses and the enquiry was conducted in violation of the prescribed rules and principles of natural justice. The workman has prayed for his reinstatement with full back wages.

4. The case of the management is that the workman has voluntarily admitted the charges; that the show cause notice was issued by the management and the reply was not submitted by the workman to the Disciplinary Authority and that the termination of service of the workman was in accordance with the proved misconduct.

5. Following are the issues in the case --

ISSUES

1. Whether the enquiry is just, proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Relief and costs ?

6. Issue Nos. 1 and 2.—Workman has admitted the papers of the departmental enquiry. Oral and written arguments were submitted by the parties on the issue of fairness of the enquiry perversity of finding and quantum of punishment. From the perusal of the proceedings dated 6-9-78, it is clear that the workman has clearly admitted the charges levelled against him. The admission by the workman was not conditional. The workman made the statements before the Enquiry Officer and he has clearly stated therein that he has committed the misconduct. The ground of illness was taken by the workman in order to get the mercy from the management with regard to the punishment. From the repeated admission by the workman, it is clear that the confession by the workman was voluntarily and unambiguous. D.E. is held just, proper and legal. Issue No. 1 and 2 are answered in favour of the management.

7. Workman has clearly stated during the enquiry that he failed to submit the leave application on account of his illness and illiteracy. It is not in dispute that the workman has subsequently submitted the fitness certificate of his illness after joining the duties. From para 14 of the statement of claim of the workman and the reply of the management. It is clear that the SCM proposed the penalty of reduction of pay and it was issued to the workman. The workman has also filed the Memorandum dated 22-11-78 issued by Shri M. R. Ghosh from which it is clear that the proposal was to impose the penalty of reduction in pay by one stage of the workman Para 2 at page 2 of the written statement of the management, clearly goes to show that the workman was censured for unauthorised absence in the year 1975 and then warning and censor was again given to the workman for his unauthorised absence. He was again punished for his unauthorised absence and his pay was reduced by one stage. It appears that the management has imposed the penalty of termination of the service of the workman

on account of his previous punishment of habitual absenteeism. The habitual absenteeism was not the part of the charge. Documents regarding the punishment on account of habitual absenteeism were not supplied to the workman during the domestic enquiry. The ground of habitual absenteeism can only be taken into consideration if it falls part of the charge and the workman gets opportunity to explain the allegation of habitual absenteeism.

8. There is no presumption that workman held guilty for previous misconduct, has also committed the misconduct alleged in the charge sheet. Workman has constantly taken the plea of illness and he has filed the medical certificate of illness without prior permission or application because of illness without prior permission or application because of his illiterary. The period of absenteeism is not very long. In the circumstances the proposed punishment of reduction of pay against the workman vide letter dated 22-11-78 by Shri M. R. Ghosh was just and proper.

9. There is no evidence or pleading to the effect that the workman was not gainfully employed after his termination. The workman was appointed in the year 1973 and during the period of five years he has received two censor two warnings and one penalty of reduction of his pay on account of his habitual absenteeism. The workman is being reinstated on account of the fact that the charge of habitual absenteeism was not framed by the management against the workman. On account of this technical defect in framing the charge the workman has escaped the punishment of termination but in order to warn the similar workman a guilty of absenteeism, it is necessary that the workman should be deprived of the back wages. Consequently looking to the totality of the circumstances I am of the considered opinion that the workman is not entitled for back wages and his punishment of termination is substituted by the punishment proposed by Shri M. R. Ghosh on 22-11-78 of reduction in pay scale by one stage.

10. The action of the management in terminating the services of Shri Sukhran w.e.f. 5-11-79 is held improper and unjustified. The impugned order is quashed and it is substituted by the punishment of reduction in pay scale by one stage as proposed by Shri M. R. Ghosh vide letter dated 22-11-78. The workman is entitled for his reinstatement from the date of publication of award. Workman will not be entitled for the back wages or any consequential relief thereof. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2157.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकाम के प्रबन्धन के संबंध निोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल-40012/151/92-आईआर (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2157.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 25-6-1996.

[No. L 40012/151/92 IR (DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-4 of 1994

PARTIES :

Employers in relation to the management of Telecom, Pune

AND

Their workmen.

APPEARANCES :

For the Management—Shri A. R. Pitale, Advocate.

For the Workman—Shri A. M. Kambli, Secretary of the Union.

STATE : Karnataka

Mumbai, the 6th day of June, 1996

AWARD

Shri A. M. Kambli Secretary of the Union.

Shri A. R. Pitale for management. The case was fixed for evidence today but in view of the Supreme Court judgment in Sub-Divisional Inspector of Post, Vaikam and ors. etc. Vs. Theyyan Joseph etc. decided on 2-2-96, the State discharges sovereign functions in providing telecom services and hence it is not an industry. In view of this, this reference is not proper and is rejected.

R. S. VERMA, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2157.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के प्रबन्धन के संबंध निोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल-40012/116/92 आईआर (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2158.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 25-6-1996.

[No. L-40012/116 92-IR (DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/78 of 1993

Employers in relation to the management of Telecom District Manager, Aurangabad

AND

Their Workman

APPEARANCES :

For the Employer—Shri P. M. Pradhan, Advocate.

For the Workman—No appearance.

Mumbai, the 4th June, 1996

AWARD

The Government of India, Ministry of Labour by its Order No. L-42012/116/92-IR (DU) dated 30-9-93 had referred to the following industrial dispute for adjudication.

"Whether the action of the management of Telecom Distt. Engineer, Aurangabad in terminating the services of Shri Sudam Kondaji Dane, Ex-casual labour is justified? If not, what relief he is entitled to?"

2. The worker Sudam Kondaji Dane filed a Statement of claim at Ex. 3 he contended that he worked as a casual labour with Telecom Department between 1-9-82 to 31-7-83. It is averred that he worked for more than 240 days in a year. He completed 258 days in service.

3. The worker pleaded that he was orally terminated. It is submitted that the provisions of retrenchment were not followed by the management. It is averred that without following the seniority list the juniors to the worker were reinstated. He submitted that he approached the opposite party for reinstatement in service. But his case was never considered. He, therefore, prayed that he may be reinstated in service with full back wages and continuity.

4. The Opposite party resisted the claim by their Written Statement Ex-5. It is denied that the worker had completed 240 days in a year. It is submitted that the workman remained absent from duty without any kind of intimation. It is averred that the worker then never approached the authority for the work. It is contended that there is no merit in the claim which deserves to be rejected.

5. The issues that fall for my consideration and my findings thereon are as follows :

ISSUES

FINDINGS

1. Whether the action of the Management The action in terminating the services of Sudam is justified. Kondaji Dane, Ex-casual Labour is justified?
2. If not, what relief he is entitled to? Does not survive.

REASONS

6. Sudam K. Dane (Ex-11) the worker filed his affidavit by way of examination-in-chief but he did not remain present for cross examination. He was absent on last occasion and today also. His advocate is also absent. In other words there is no evidence on behalf of the workman. He has not proved his case.

7. It can be further seen that in Sub-Divisional Inspector of post workers Theyyam Joseph 1996 (2) Supreme 487 his Lordship had observed that one of the duty each of the state is to provide telecommunication service to the general public and amenity and so is the essential part of serving functions of the state as a welfare state. It is not, therefore, an industry. As this is so, Sudam Kondaji Dane cannot be said to be a worker and the dispute cannot be said to be an Industrial Dispute. In that case, the Tribunal has no jurisdiction to decide the matter. But that is a question of merit. I am disposing the reference as there is no evidence on behalf of the worker. In the result, I record my findings on issues as stated above and pass the following order.

ORDER

The action of the management of Telecom District Engineer, Aurangabad in terminating the services of Sudam Kondaji Dane, Ex-casual labour is justified.

S. B. PANSE, Presiding Officer

नई दिल्ली 27 जून 1996

का. सा. 2159 औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम रेलवे के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-6-96 को प्राप्त हुआ था।

[संख्या एल - 41012/10/93 - आई आर (डीयू)]

पी. जे. माईकल, डैस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2159.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Western Railway and their workman, which was received by the Central Government on 27-6-1996.

[No. L-41012/10/93-IR (DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Case Ref. No. CGIT/LC (R)(109)/1994

BETWEEN

Shri Dayaram S/o Shri Radha Kishan, Gaon Chainpur,
Post Narwal, District Ujjain (MP)-456001.

AND

The Divisional Railway Manager (Esst), Western Railway, Ratlam (MP)-457001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman—Shri A. N. Bhat, Advocate.

For Management—Shri Mendho, Advocate.

INDUSTRY : Railway DISTRICT : Ratlam (MP)

AWARD

Dated, the 2nd May, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-41012/10/93-IR (DU) dated 29-7-1994, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the claim of Shri Dayaram that his services were illegally terminated by the management of D.R.M. Western Railway, Ratlam, w.e.f. 16-6-89 is correct? If so, to what relief the workman is entitled to?"

2. Admitted facts of the case are that the workman, Dayaram, was engaged as a Gangman with effect from 28-2-1979; that the services of the workman were terminated with effect from 16-6-89 on account of unauthorised absence.

3. Case of the workman is that he has continuously worked from 28-2-79 to 30-8-1988 as a Gangman and that the workman fell ill; that the management has terminated the services of the workman without giving him notice or retrenchment compensation as per Section 25-F of the I. D. Act;

that the management has not adhered to the principle of last come first go. The workman has prayed for his regularisation and reinstatement with full back wages.

4. Case of the management is that the workman has not worked for 10 years and he has voluntarily left the job. The workman was not entitled for the retrenchment compensation or notice as his services were not terminated by the management.

5. Management has prayed to close the case as the workman failed to file the documents and produce the evidence inspite of the repeated opportunity granted to the workman. Counsel for the workman appeared and pleaded no instructions from the workman. Consequently, it is clear that the workman is not interested in pursuing the dispute. Reference is answered against the workman and it held that the workman has failed to prove that his services were illegally terminated by the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. अ. 2160.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम टी एन एल के प्रान्त्वन्त के संरक्षित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बन्ड के पंगस्ट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[मं. एल - 40012/170/92 - आई आर (डीयू)]

पी जे. आईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2160.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of MTNL and their workman, which was received by the Central Government on 25-6-1996.

[No. 40012/170/92-IR (DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-1/39 of 1993

PARTIES :

Employers in relation to the management of MTNL, Bombay

AND

Their workmen

APPEARANCES :

For the Management—Ms. Shah, Advocate.

For the Workman—Mr. M. B. Anchan, Advocate

INDUSTRY : Telephone STATE : Maharashtra

Mumbai, the 12th day of June, 1996

AWARD

The appropriate Government has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Mahanagar Telephone Nigam Ltd., in terminating the services of Shri Prakash S. Kadum, Dearest, v.o. 14-1-88 is just, proper and legal? If not, to what relief the workman entitled to?"

2. The claim was filed by the union espousing the case of the workman on 2-8-1994.

3. The management resisted the claim by filing its reply the same day i.e. 2-8-94.

4. Before the matter could proceed on merits, it was submitted on behalf of the management that M.T.N.L. was merely an agent and instrumentality of the state. In providing telephonic services to the public, it was discharging a sovereign function of the state as was held in sub-Divisional Engineer Posts Vaikam and Ors. Vs. Theyyan Joseph and others by the Supreme Court on 2-2-96. Hence, it could not be treated as an industry at all and the dispute ought to be rejected as improper and incompetent.

5. Shri Anchan submits that though MTNL is an agent of the state, yet, it was a public utility service as defined in Section 2(n) of the Industrial Disputes Act. He submits that in Bangalore Water Supply and Sewerage Board 1978 L.B. IC. 467, expression 'industry' has been interpreted in the widest terms and Sub-Divisional Engineer Posts, Vaikam which has been rendered by a smaller Bench of the apex court, can not nullify the meaning given to expression 'Industry' in Bangalore Water Supply case. He submits that the judgment in Sub-Divisional Engineer Post, Vaikam does not take into consideration the fact that providing of telecommunication has not been treated as a specific welfare measure of the state as envisaged in Chapter IV of the constitution of India.

6. On behalf of the M.T.N.L. it is urged that MTNL is merely an agent of the state. Definition clause 2(n) of the Industrial Disputes Act only defines what utility services are. It does not specifically lay down that providing of telephonic services is an industrial activity. It is submitted that there was no occasion to consider the nature of telephonic services in the Bangalore Water Supply case and till Sub-Divisional Post Vaikam holds the field, this Court is bound to hold that in providing such services, the state and its agent MTNL are discharging only sovereign functions and do not carry on any industrial activity.

7. I have considered the rival contentions. That M.T.N.L. is an agent of the State is no longer Res Integra. The Bombay High Court in a Division Bench decision rendered in the Bombay Telephone Canteens Employees Association vs. The Mahanagar Telephone Nigam Ltd. (Civil Appeal No. 263 of 1988 in Writ Petition No. 1721 of 1988) decided on October 14, 1988 has taken a categorical view that M.T.N.L. is an agent of the Central Government, notwithstanding the fact that it has been incorporated as a separate company. Hence, I need not examine this aspect in any great details and I hold that M.T.N.L. is merely an agent of the Central Government, inspite of its incorporation as an independent company.

8. This is true that 'telephonic service' has been included in the category of utility services by Section 2(n) of the Industrial Disputes Act. But it does not lead to the conclusion that in rendering such a utility service, the State or its agent is not discharging the sovereign functions of the State and hence should be treated as industry.

9. Following view was expressed in Sub-Divisional Inspector of Posts, Vaikam and ors. etc. vs. Theyyan Joseph etc. decided on 2-2-96 [1996 (1) SSC] :

"Having regard to the contentions, the question arises whether the appellant is an industry. India as a sovereign, socialist, secular democratic republic has to establish an egalitarian social order and

rule of law. The welfare measures partake the character of sovereign function and the traditional duty to maintain law and order is no longer the concept of the state. Directive principles of state policy enjoin in the state diverse duties under Part IV of the constitution and the performance of the duties are constitutional functions. One of the duty of the State is to provide telecommunication service to the general public and an amenity and so is one essential part of the sovereign functions of the state as a welfare state. It is not therefore, an industry."

10. In view of this categorical observation, the Bangalore Water Supply case has no applicability to the present case. I am bound by the aforesaid latest decision of the apex Court.

11. In the result, I find that M.T.N.L. is not an industry; the reference does not involve any industrial dispute. Hence, the reference has to be rejected as incompetent. At any rate this Tribunal has no jurisdiction to adjudicate this dispute, it not being an industrial dispute at all. The reference is, thus, rejected. Parties are left to bear their own costs.

R. S. VERMA, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. शा. 2161.--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्र सरकार एम टी एन एल के प्रबंधन के संबंध में निम्नलिखित कार्यवाही के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एन - 40012/169/92 - आई शार (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2161—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of MTNL and their workman, which was received by the Central Government on 25-6-1996.

[No. L-40012/169/92-IR (DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-1/88 of 1993

PARTIES :

Employers in relation to the management of MTNL, Bombay

AND

Their workmen.

APPEARANCES :

For the Management—Ms. Shah.

For the Workman—Mr. M. B. Anchan, Advocate.

INDUSTRY : Telephones STATE : Maharashtra
Mumbai, the 27th day of June, 1996

AWARD

The appropriate Government has referred the following dispute to this Tribunal for adjudication.

"Whether the action of the management of Cooperage Telephone Exchange of Maharashtra Telephone Nigam Ltd., in terminating the services of Shri Ramesh Bhandari, Bearer w.e.f. 26-2-88 is just, proper and legal? If not, to what relief is the workman entitled to?"

The claim was filed by the union espousing the cause of the workman on 24-2-1994.

3. The management resisted the claim by filing its reply on 2-8-1994.

4. Before the matter could proceed on merits, it was submitted on behalf of the management that M.T.N.L. was merely an agent and instrumentality of the state. In providing telephonic services to the public, it was discharging a sovereign function of the state as was held in Sub-Divisional Engineer Posts Vaikam and others vs. Theyyan Joseph and others by the Supreme Court on 2-2-96. Hence, it could not be treated as an industry at all and the dispute ought to be rejected as improper and incompetent.

5. Shri Anchan submits that though M.T.N.L. is an agent of the state, yet, it was a public utility service, as defined in Section 2(n) of the Industrial Disputes Act. He submits that in Bangalore Water Supply and Sewerage Board 1978 Lab. I.C. 467, expression 'industry' has been interpreted in the widest terms and Sub-Divisional Engineer Posts, Vaikam which has been rendered by a smaller Bench of the apex Court, can not nullify the meaning given to expression 'Industry' in Bangalore Water Supply case. He submits that the judgment in Sub-Divisional Engineers Posts, Vaikam does not take into consideration the fact that providing of telecommunication has not been treated as a specific welfare measure of the State as envisaged in Chapter IV of the constitution of India.

6. On behalf of M.T.N.L. it is urged that M.T.N.L. is merely an agent of the state. Definition clause 2(n) of the Industrial Disputes Act only defines what utility services are. It does not specifically lay down that providing of telephonic services is an industrial activity. It is submitted that there was no occasion to consider the nature of telephonic services in the Bangalore Water Supply case and till such day as Divisional Posts Vaikam holds the field, this Court is bound to hold that in providing such services, the state and its agent M.T.N.L. are discharging only sovereign functions and do not carry on any industrial activity.

7. I have considered the rival contentions. That M.T.N.L. is an agent of the state is no longer Res Integra. The Bombay High Court in a Divisional Bench decision rendered in the Bombay Telephone Canteens Employees Association vs. The Maharashtra Telephone Nigam Ltd. (Civil Appeal No. 988 of 1988 in Writ Petition No. 1721 of 1988) decided on October 14, 1988 has taken a categorical view that M.T.N.L. is an agent of the Central Government, notwithstanding the fact that it has been incorporated as a separate company. Hence, I need not examine this aspect in any great details and I hold that M.T.N.L. is merely an agent of the Central Government, inspite of its incorporation as an independent company.

8. This is true that 'telephone service' has been included in the category of utility services by Section 2(n) of the Industrial Disputes Act. But it does not lead to the conclusion that in rendering such a utility service the state or its agent is not discharging the sovereign functions of the state and hence should be treated as industry.

9. Following view was expressed in Sub-Divisional Inspector of Post, Vaikam and ors. etc. vs. Theyyan Joseph etc. decided on 2-2-96 [1996 (1) SCC] :

"Having regard to the contentions, the question arises whether the appellant is an industry. India as a sovereign, Socialist, Secular democratic republic has to establish an egalitarian social order and rule of law. The welfare measures partake the character of sovereign function and the traditional

duty to maintain law and order is no longer the concept of the state. Directive principles of state policy enjoin in the state diverse duties under Part IV of the constitution and the performance of the duties are constitutional functions. One of the duty of the State is to provide telecommunication service to the general public and an amenity and so is one essential part of the sovereign functions of the state as a welfare state. It is not therefore, an industry."

10. In view of this categorical observation, the Bangalore Water Supply case has no applicability to the present case. I am bound by the aforesaid latest decision of the apex Court.

11. In the result, I find that M.T.N.L. is not an industry; the reference does not involve any industrial dispute. Hence, the reference has to be rejected as incompetent. At any rate, this Tribunal has no jurisdiction to adjudicate this dispute, it not being an industrial dispute at all. The reference is, thus, rejected. Parties are left to bear their own costs.

R. S. VERMA, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2162.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस पी एम के प्रबन्धतंत्र के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल - 42012/59/85 - डी II (बी)]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2162.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Security Paper Mill and their workman, which was received by the Central Government on 25-6-1996.

[No. L-42012/59/85-D.II (B)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC (R)(44)/1987

BETWEEN

Shri S. R. Sunaniya represented through the General Secretary, Zila Pariwahan Karamchhari Union, Sadar Bazar, Hoshangabad (MP).

AND

The General Manager, Security Paper Mill, Hoshangabad (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman—Shri S. Paul, Advocate.

For Management—Shri R. C. Srivastava, Advocate.

INDUSTRY : Security Paper Mill DISTRICT : Hoshangabad (MP).

AWARD

Dated, the 30th April, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-42012/59/85-D.II (B) dated 22nd April, 1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Security Paper Mill, Hoshangabad, in removing Shri S. R. Sunaniya, a paper worker, from service w.e.f. 25-6-84, is justified? If not, to what relief the workman concerned is entitled to?"

2. Admitted facts of the case are that the workman was confirmed as a Paper Boy w.e.f. 1-10-75; that the charge-sheet dated 30-11-83 was served on the workman on the allegation of long absenteeism and the workman was removed from service from 25-6-84.

3. The case of that the workman is he was absent on account of prolong sickness of his father; that the leave application was sent by the workman; that the proper opportunity to defend the case during the domestic enquiry was not provided to the workman. Workman has alleged that the termination from service is illegal and the workman is entitled for reinstatement with full back wages.

4. The case of the management is that the workman was a habitual absentee; that the Enquiry Officer has provided full opportunity to the workman to defend the case. Management has alleged that he was a chronic absentee and he was charge-sheeted on 25-4-79 and his one increment was withheld; that again he was charge-sheeted in May 1980 and he was reverted to the post of Paper Boy. Management has alleged that the order of removal of the workman from service was just and proper.

5. Following are the issues in the case :—

ISSUES

1. Whether the enquiry is proper and legal?
2. Whether the management is entitled to lead evidence before this Tribunal?
3. Whether the punishment awarded is proper and legal?
4. Whether the termination/action taken against the workman is justified on facts of the case?
5. Relief and costs?

6. Issues No. 1 and 2—My learned predecessor has vitiated the enquiry vide order dated 8-11-90 on the ground that the enquiry paper filed by the management was illegible and unreadable. Management was directed to lead evidence to prove the misconduct. Issue Nos. 1 and 2 were answered accordingly.

7. Issue No. 3, 4 and 5—Workman has stated that he was continuously absent, but he has filed the leave application along with the medical certificate. The workman has clearly admitted in his cross-examination that the D.F. was conducted against him on the allegation of long absenteeism and the charges were admitted by him during the enquiry. Shri Goel (MW-1) who was the Security Officer has stated that the charges were admitted by the workman during the enquiry the charge against the workman was that he was absent from duty for 340 days from 1-5-80 to 1-1-83 onward without the approval of the authorities or prior intimation. Consequently from the clear admission by the workman before the Tribunal in his cross-examination and from the statement of Shri Goel (MW-1) it is clear that

the workman was guilty of long and unauthorised absenteeism.

8. Workman has not filed the documents to show that he was absent on account of the illness of his father. The workman has not examined any witness to prove that his father fell ill during the period of his absence. Nature of the illness or treatment given to the father was not disclosed either in the evidence or statement of claim of the workman. Consequently, defence of the workman that he was absent on account of the illness of his father without any evidence.

9. However, the absence of 340 days without the permission or intimation is a grave misconduct and it cannot be exonerated on the ground of the illness of the father of the workman or illness of his family members. From the statement of Shri Goel, it is clear that he was twice punished for his unauthorised absence. Looking to the gravity of the misconduct, the workman is not entitled for any indulgence in quantum of punishment. The gross misconduct is proved and the punishment is in accordance with the proved misconduct.

10. The action of the management in removing Shri S. R. Sunania from service w.e.f. 25-6-84 is held just and proper. Reference is answered in favour of the management. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. प्रा. 2163.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पोटेटो रिसर्च स्टेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल - 42012/87/88 - डी 2 (बी)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2163.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Potato Research Station and their workman, which was received by the Central Government on 25-6-96.

[No. L-42012/87/88-D.II(B)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

Case Ref. No. CGIT/LC(R)(203)/1989

BETWEEN

Shri Tarachand Rajak S/o Shri Barelal Rajak,
near Santar Police Station, Murar, Gwalior (MP).

AND

Officer-in-charge Central Potato Research Station P.B.
No. 4, Gwalior (MP)-474006.

PRESIDED IN:

APPEARANCES:

For Workman—Shri M. P. Sharma, Advocate.

For Management—Shri Satish Sharma, Advocate.

INDUSTRY : Research Centre DISTRICT : Gwalior (MP).
1648 GI/96

AWARD

Dated, May 17, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-42012/87/88-D-II(B) dated 5-10-1989, for adjudication of the following industrial dispute :

SCHEDULE

क्या श्री ताराचन्द राजक पुत्र श्री बारेलाल राजक को प्रबंधन आफिसर इनचार्ज, सेंट्रल पोटेटो रिसर्च स्टेशन, ग्वालियर द्वारा जून, 87 के पश्चात् काम पर नहीं लेना या नौकरी से निकाला जाना नियम के विरुद्ध नहीं है। अगर श्री ताराचन्द को नौकरी से निकाला जाना अवैध है तो उन्हें नौकरी पर पिछली तिथि से वापस लिया जाना सम्मत है या नहीं? एवं वे किन-किन अनुसूचियों के अधिकारी हैं।

2. The case of the workman is that he was appointed as Electrician in the Central Potato Research Station Gwalior; that his services were removed w.e.f. June, 1987 without 'payment of one month's wages' or notice; that he has completed more than 240 days service and the management has not followed the provision of I.D. Act. The workman has claimed reinstatement with full back wages.

3. The case of the management is that the workman was employed/engaged in October, 1985 as a casual worker on daily wages. The workman has himself opted not to come for work after 15th April, 1987. Since the workman has himself abandoned the employment, he is not entitled to claim reinstatement etc.

4. Despite the repeated notices to the management, they remained absent and the case was proceeded ex-parte and after evidence of the workman and arguments ex-parte award was passed by my learned predecessor on 10-4-91. Thereafter the management filed a M'sc. Petition No. 4/91 for setting aside the ex-parte award. The award was set aside by my learned predecessor vide order dated 17-1-1992 in Misc. Petition No. 4/91 and in Ref. No. 203/89. The written statement filed by the management was taken on record and case was fixed for evidence. On 17-1-92 as per agreement between the parties, it was observed by my learned predecessor that the workman shall continue in service until the final decision of the case.

5. Workman has filed an application today to withdraw the case in case the management agrees to regularise the workman as soon as vacancy occurs.

6. Workman is still in service and the management undertook that the services of the workman will not be terminated without the permission of the Court. In these circumstances there remains no dispute for adjudication and award is passed accordingly. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2164.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस पी एम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल - 16011/1/94 - आई आर (टीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2164.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of S.P.M. and their workman, which was received by the Central Government on 25-6-96.

[No. L-16011/1/94-IR(DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

Case Ref. No. CGIT/LC(R)(42)/1995

BETWEEN :

The General Secretary, S.P.M. Karmachari Sangh, Hoshangabad (MP).

AND

The General Manager, S.P.M. Hoshangabad (MP) 461005.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen.—None

For Management.—None.

INDUSTRY : Security Paper Mill

DISTRICT : Hoshangabad (MP).

AWARD

Dated, May 14, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-16011/1/94-IR(DU) Dated 23-2-95, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of S.P.M. Hoshangabad in not giving the pay scale of Rs 1200—1800 to the workers S/Sh. J. P. Galan, R. Verma, P. L. Jain, R. R. Sharma, Goverdhan Patel, G. L. Raghuvanshi, Bihari Lal Sharma, Nehru Singh Lovehi and Attas Singh Mina, w.e.f. 14-11-82 is justified or not? If not, to what relief the workmen are entitled?"

2 After receipt of the reference order as many as five dates were fixed for filing of statement of claim by the workmen. But the statement of claim was neither filed

by the workmen nor any one of them put the appearance before the Tribunal. None appeared on behalf of the management on any date.

3. It appears that the parties are not interested in pursuing the dispute referred to this Tribunal. As such no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2165.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाहन फैक्ट्री के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल - 14012/25/89 - आई आर (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2165.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Vehicle Factory and their workman, which was received by the Central Government on 25-6-1996.

[No. L-14012/25/89-IR(DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(132)/1990

BETWEEN

Shri Ramdayal Samund S/o Shri B. P. Samund, Harijan Basti, Behind Gaushala, Ranjhi, Jabalpur, (MP)-482001.

AND

The General Manager, Vehicle Factory, Jabalpur, (MP)-482001.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri Sanjay Yadav, Advocate,

For Management—Ku. Sharmila Singhai, Advocate.

INDUSTRY : Vehicle Factory. DISTRICT : Jabalpur (MP).

AWARD

Dated, April 16, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-14012/25/89-IR(DU), dated 5/7-9-90, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the management of Vehicle Factory, Jabalpur, (M.P.) is justified in terminating the services of Shri Ramdayal Samund S/o Shri B. P. Samund w.e.f. 26-5-88? If not, what relief he is entitled to?"

2. Admitted facts of the case are that Shri Ramdayal was working as a Sweeper in Vehicle Factory, Jabalpur and he

was served with a charge-sheet on 30-12-87 on the allegation that the workman committed theft of Copper Wire Coil weighing approximately 3 Kg.

3. The case of the workman is that he was falsely implicated in case of theft and the Enquiry Officer forced the workman to admit the charge; that the charge was not admitted by the workman and the Enquiry Officer made the false record that the charge was admitted by the workman. The workman has prayed to set aside the order of his termination w.e.f. 26-5-88 and prayed for reinstatement with back wages.

4. The case of the management is that on 24-12-87 at about 5 p.m. when the workman, Ramdayal, was going out after performing his duties in the factory, the search was made by the Security Officer and he was found carrying government property i.e. Copper Wire Coil; that during the departmental enquiry the charges were admitted by the workman and his services were terminated.

5. Following are the issues framed in the case:—

1. Whether the enquiry is just, proper and legal?
2. Whether the management is entitled to lead evidence before this Tribunal?
3. Whether the charges of misconduct are proved on the facts of the case?
4. Whether the punishment awarded proper and legal?

6. Issues No. 1 to 5.—Workman has not led any evidence to prove that the Enquiry Officer forced him to admit the guilt. There is no pleading or evidence to the effect that the workman made any complaint against the Enquiry Officer for forcing the workman to admit the guilt or for preparing the false record relating to his admission of the guilt. Consequently, the workman has failed to prove that the departmental enquiry was improper and his termination of service was illegal. The action of the management in terminating the services of Shri Ramdayal Samund w.e.f. 26-5-88 is just and proper. Workman is not entitled for any relief. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का.आ. 2166.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आइनेन्स फैक्ट्री के प्रबन्धन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल - 14012/91/90 - आई आर (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2166.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Ordnance Factory and their workman, which was received by the Central Government on 25-6-96.

[No. L-14012/91/90-JR(DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LC(R) (73)/1991

BETWEEN

Shri Bhagwat Sharma S/o Shri Ram Sujan,
Bhanpura, Post Bunji (Bunja) Teh.
Sihora, Distt. Jabalpur (M.P.)-483 225.

AND

The General Manager, Ordnance Factory,
Khamaria, Jabalpur (M.P.)-482 005.

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman—Shri A. K. Shasi, Advocate

For Management—Shri B. Da'Silva, Advocate

INDUSTRY : Ordnance Factory DISTRICT :
Jabalpur (M.P.)

AWARD

Dated, the 15th April, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-14012/91/90-IR(DU), dated 11-4-91, for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the action of Ordnance Factory, Khamaria, Jabalpur in terminating the services of Shri Bhagwat Prasad, S/o Sh. Ram Socjan, Ex-CMD Gr.-II w.e.f. 4-5-89 is justified? If not, what relief he is entitled to and from what date?”

2. Admitted facts of the case are that the workman, Bhagwat Prasad, was working as C.M.D. Gr.-II at Ordnance Factory, Khamaria and he was issued with a charge-sheet, dated 26-5-83 alleging that the workman has unauthorisedly removed Government vehicle and misused the Government vehicle for facilitating the theft of the property of the Ordnance Factory, Khamaria; that the Enquiry Officer submitted the report dated 2-1-1989 holding that the charges levelled against the workman were not proved; that the Disciplinary Authority disagreed with the findings of the Enquiry Officer vide order dated 4-5-89 and imposed the penalty of dismissal from service on the workman. It is also admitted that a police report was lodged against the workman and in criminal case No. 553/84 Judicial Magistrate First Class, Jabalpur, acquitted the workman, Bhagwat Prasad, along with

the six other co-accused from the charge punishable under Sections 371 and 411 of IPC.

3. The workman has assailed the punishment on the ground that the Disciplinary Authority has not supplied the copy of the report of the Enquiry Officer and show cause notice was not issued before the impugned dismissal order by the Disciplinary Authority; that the order of the Disciplinary Authority is not a speaking order and is without the application of mind and against the facts on record; that the Disciplinary Authority has ignored the finding of the Magistrate 1st Class made in judgement dated 18-5-87 and in view of his acquittal dismissal of the workman is not justified. The workman has further alleged that the management has not taken any action against the remaining six co-accused of the case and the action of the management in choosing to proceed against the workman and dismissing him was not proper; that the Enquiry Officer has not supplied the copies of the documents and the proper opportunity to defend the case was not provided to the workman during the domestic enquiry. The workman has prayed to declare the order of his termination as illegal and that the workman be reinstated with full back wages.

4. The case of the management is that on 26-5-83 at about 3.20 A.M. it was reported that the workman arrived at the main gate with a Government vehicle No. MPJ3770 and during the search of vehicle by the defence security caught three gunny bag filled with fuse etc. body of brass was found underneath of the Driver seat; that the fuse body 170 in numbers weighing about 113 kg. was seized and sealed by the Security Officers; that the workman, Bhagwat Prasad, made the false statement to the security personnel that some luggage was under his seat and he tried to mislead the Security Officer; that the workman had no authority to carry the vehicle without any requisition; that the proper opportunity to defend the case was provided to the workman during the domestic enquiry; that the charges were fully proved against the workman and the Disciplinary Authority has rightfully punished him with the dismissal from the service; that the acquittal of the workman by the Criminal Court has no bearing in the case. Management alleges that the workman is not entitled for any relief, whatsoever.

5. Following are the issues in the case :—

ISSUES

1. Whether the enquiry is proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?

4. Whether the punishment awarded is proper and legal ?

5. Relief and costs ?

6. Issues No. 1 & 2.—Workman has fully participated in the domestic enquiry. Case was posted for the arguments on the fairness of enquiry on 17-2-95 and the workman has also admitted that there is no ground to vitiate the enquiry. Domestic enquiry was held as per rules and principles of natural justice. Enquiry is held just, proper and legal and issue No. 1 & 2 were answered in favour of the management vide order dated 17-2-1995.

7. Issue No. 3, 4 & 5.—Enquiry Officer, Shri K. R. Ramanadhan by his report dated 2-1-89 has held that the charges of attempted theft of fuse of 117 body brass of Ordnance Factory were fully established against the co-accused, Jamuna Prasad Bajpai, the allegation against the workman was that the workman, Bhagwat Prasad, was driving the Jeep No. MPJ 3770 unauthorisedly and workman, Bhagwat Prasad, was facilitating the theft of 117 body brass which was being carried by the co-accused, Jamuna Prasad Bajpai. Enquiry Officer in his finding has held that it is not proved that the workman, Bhagwat Prasad, conspired with the co-accused, J. P. Bajpai, Enquiry Officer has further held that the involvement of Bhagwat Prasad in unauthorised removal of the Government property in collusion with the J. P. Bajpai is not established.

8. Finding of the Enquiry Officer is perverse. The Enquiry Officer has not taken into consideration the vital circumstance against the workman, Bhagwat Prasad. The standard of proof in the domestic enquiry is not that high as in criminal cases. In case of conspiracy the circumstantial evidence sometimes provide better proof. It is held in case of Shivanarayan Laxminarayan Joshi and others Vs. State of Maharashtra and others (AIR 1980 Section 439) that "conspiracy is always hatched in secrecy and it is impossible to adduce direct evidence of the case. The offence can be only proved largely from the inferences drawn from acts or illegal omission committed by the conspirators in pursuance of a common design"

9. The workman, Bhagwat Prasad, has admitted during the enquiry that he was driving the Jeep No. MPJ-3770 of Ordnance Factory. Bhagwat Prasad was not authorised to use the Jeep of the Factory at the relevant time. Bhagwat Prasad has not obtained the required entry from the Incharge MT in the Car Diary. The Orderly Officer has not given the workman the token of driver for the proposed movement of the vehicle, the vehicle of the Ordnance Factory was not for the use of J. P. Bajpai and as such the action of the workman, Bhagwat Prasad, in using unauthorisedly the Jeep of the Ordnance Factory for J. P. Bajpai was illegal and unjustified. The workman, Bhagwat

Prasad has not given any explanation that why the official Jeep was driven by him unauthorisedly. J. P. Bajpai was not given any duty to go out of the factory in the Jeep. The workman, Bhagwat Prasad, made an attempt to drive the official Jeep to the Railway Station while as per the Car Diary and Gate Diary the vehicle was to go to the Filter House only.

10. The workman, Bhagwat Prasad, was responsible for the unauthorised movement of the official Jeep from the factory to the railway station. The workman, Bhagwat Prasad, given the lift in the Jeep to J. P. Bajpai and Seva Nand when no authority to use the vehicle at the relevant time was with him. The workman, Bhagwat Prasad, has given false explanation to the Security Officer during the checking that the bag under his seat is own good while in fact the bag under the seat was full of unauthorised and sensitive items of the Ordnance Factory weighing more than 113 Kg. The Enquiry Officer has exonerated the workman, Bhagwat Prasad, on the ground that the workman (Bhagwat Prasad) was merely a driver and he was driving the vehicle under the instructions of J. P. Bajpai. The co-accused, J. P. Bajpai, had no authority to direct Bhagwat Prasad to carry him to the railway station. The basic formality of taking the permission of the Olderly Officer and making the entry in the Car Diary and the required approval was not taken before the movement of the vehicle. Consequently, the Enquiry Officer has gravely erred in ignoring the vital circumstance against the workman, Bhagwat Prasad, and the learned Disciplinary Authority rightly disagreed with the finding of the Enquiry Officer and the learned Disciplinary Authority in his detail order has rightly concluded that the workman, Bhagwat Prasad, was responsible for the alleged attempted theft of fuse 117 body of Ordnance Factory.

11. The workman has challenged the findings on the ground that the copies of the report of Enquiry Officer and the notice was not given by the Disciplinary Authority before imposing the impugned punishment. This defects relates to the breach of natural justice while conducting the domestic enquiry. The workman has admitted that the enquiry was fair. He is estopped from raising the objection regarding service of notice of the enquiry report before the impugned punishment. By admitting the fairness of the enquiry, the workman has deprived the management to show the service of the required notice or that the enquiry report was given to the workman by the Disciplinary Authority before the impugned punishment by the Disciplinary Authority. However, the workman has failed to prove that any prejudice was caused to him for non-supplying the copy of the report or notice before imposition of the impugned punishment of dismissal from service.

12. From the perusal of para 7 of the judgment dated 18-5-87 in criminal case No. 553/84 of then Judicial Magistrate, First Class, it is clear that Bhagwat Prasad and J. P. Bajpai were guilty of the charge of theft of 117 Nos. fuse body brass on the ground of benefit of doubt. The acquittal of the workman, Bhagwat Prasad, was not honourable and as such it cannot effect the finding of the Disciplinary Authority against the workman.

13. The workman was involved in the attempted theft of 117 fuse body brass filled in three gunny bags weighing 113.5 Kg. Workman, Bhagwat Prasad, and his co-accused, J. P. Bajpai, were the main accused in the case. The other co-accused were sitting in the Jeep and if the management has not taken any action against them it will not effect the gravity of the gross misconduct of the workman, Bhagwat Prasad. The workman, Bhagwat Prasad, is guilty of unauthorisedly taking away the official Jeep and stolen material was recovered from his seat and workman, Bhagwat Prasad, gave misleading statement about the contents of the property which was kept under his seat. The case against the workman, Bhagwat Prasad, is different than the case against the rest of the five alleged workmen against whom criminal case was filed. Consequently, the allegation against the management of discrimination is not proper.

14. The action of the management in terminating the services of Shri Bhagat Prasad w.e.f. 4-5-89 is justified. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2167.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदोष्ट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं एल-40012/86/89-डी 2 बी]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2167.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom. and their workman, which was received by the Central Government 28-6-96.

[No. L-40012/86/89-D 2 B]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,

JABALPUR (MP).

Case Ref. No. CGIT/LC(R)(36)/1990

BETWEEN

Shri Lalmani Pande S/o Sri Ram Gopal Pande,
Gram : Sakarwal, Post Bihara Via Kachore,
District Rewa (MP)-486001.

AND

The General Manager, Telecommunication.
Bhopal (MP)-462001.

PRESIDED IN : By Shri Arvind Kumar Awasthy.
APPEARANCES :

For Workman : Shri R. Menon, Advocate.

For Management : Shri B. Da'Silva, Advocate.
INDUSTRY : Telecommunication DISTRICT :
Bhopal (MP).

AWARD

Dated : May' 10 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-4002/86/89-D-2(B) dated 30-1-1990, for adjudication of the following industrial dispute :

SCHEDULE

"Whether the management of Telecommunication, Bhopal (MP) in terminating the services of Shri Lalmani Pande S/o Ram Gopal Pande, Ex-Casual Labour, w.e.f. 23-5-88 was justified? If not, to what relief the workman is entitled?"

2. Admitted facts of the case are that the workman, Lalmani Pande, was employed as a casual Mazdoor under the S.D.O.(T) Satna and that the workman was denied with the employment with effect from 23-5-88. It is also the common ground that the retrenchment compensation or one month's notice was not given to the workman.

3. Case of the workman is that he has continuously worked from May 1986 to May 1988 and his services were illegally terminated in contravention of mandatory provisions of Sec. 25F of the I.D. Act. Workman has claimed reinstatement with full back wages.

4. Case of the management is that the workman was engaged as a casual labour for the execution of temporary development and targeted work and on completion of the said work his services were terminated; that the workman has not continuously worked from May 1986 to May 1988. Management has alleged that there is no vacant post for casual mazdoor and as the temporary development targeted work has come to an end, the workman is not entitled for any relief, whatsoever.

5. Terms of reference was made the issue in the cases.

6. Workman has filed the affidavit alleging that he was employed as a casual mazdoor under the S.D.O. (Telephone) Satna and he has worked from May 86 to May 1988. From the perusal of the order sheet dated 1-3-94, it is clear that the management has refused to cross-examine the workman. Consequently, on the basis of the unchallenged affidavit of the workman, it is clear that the workman has worked continuously for 474 days from May 1986 to May 1988.

7. From the statement of V. P. Shukla, Section Supervisor, it is clear that the workman was appointed as a casual labour for the execution of temporary targeted work. The workman has produced the copy of the certificate of the management dated 13-6-89 and the workman in his examination-in-chief has admitted this document (Ex.W/2). From the perusal of certificate dated 13-6-89, it is clear that the workman was engaged for temporary and emergency work. Consequently, from the statement of the management witness and the document filed by the workman, it is clear that the workman was engaged for execution of temporary and emergency work. It is held in case of P. S. Anitha Vs. Asst. Director of Development Tea Board and others (1995 Lab. I.C.37 that the termination of casual labour after the expiry of temporary contractual work is not a retrenchment. The letter of appointment was not given to the workman nor his name was sponsored by the Employment Exchange. the service of the workman was terminated as there was no work. Consequently, the termination of the workman is covered by the definition under Sec. 2(o)(bb) of the I.D. Act. Consequently, the workman who has completed more than 240 days in a calendar year is not entitled for the benefit of Sec. 25F of the I.D. Act as his termination was not retrenchment.

8. Consequently, it is held that the action of the management in terminating the services of the workman was not illegal or unjustified. Reference is answered in favour of the management. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2168.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार दूरसंचार के प्रबन्धन के संबंध में नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-96 को प्राप्त हुआ था।

[सं. एल - 40012/231/91 - आई आर (डीयू)]

पी. जे. माईकल, डैस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2168.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom. and their workman, which was received by the Central Government on 25-6-96.

[No. L-40012|231|91-IR(DU)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,

JABALPUR (MP).

Case Ref. No. CGIT|LC(R)(3)|1993

BETWEEN

Shri Arjun Bhimrao Jugnade R/o Gajanand
Nagar Wardha (MS)-442001.

AND

The Sub Divisional Officer (T), Wardha (MS)-
442001.

PRESIDED IN : By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman : Miss Kumbhare, Advocate.

For Management : Shri Sunderan Advocate.

INDUSTRY : Telephone DISTRICT : Wardha (MS).

AWARD

Dated : May 10, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012|231|91-IR(DU) dated 7-1-1993 for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Sub Divisional Officer (T) Wardha in terminating the services of Shri Arjun Bhimrao Jugnade is legal and justified? If not, what relief he is entitled to?”

2. Reference was received on 11-1-93 and since then the workman has not filed the statement of claim inspite of enumerable adjournments were granted to the workman to file the statement of claim.

3. The initial burden of proving the fact that the management has illegally terminated the service of the workman rest on the workman. As the workman has not filed the statement of claim or any documents to show that the action of the management was unjustified I hold that the workman has failed to prove that the termination of service was illegal. Reference is answered in favour of the management. Workman is

not entitled to any relief. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2169 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस पी एम के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल - 42012/58/85 - डी-II (बी)]

पी. जे. माईकल, डेस्क अधिकारी

New Dehi, the 27th June, 1996

S.O. 2169.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of S.P.M. and their workman, which was received by the Central Government in 25-6-1996.

[No. L-42012|58|85-D. II(B)]

P. J. MICHEAL, Desk Officer.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (M.P.)

CASE REF. NO. CGIT|LC(R)(28)|1987
BETWEEN :

Shri S. C. Nivasankur, Sainik Building, Near
Home Guard Office, Hoshangabad (M.P.).

AND

The General Manager, Security Paper Mill,
Hoshangabad (M.P.).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri S. Paul, Advocate.

For Management : Shri R. C. Srivastava,
Advocate.

INDUSTRY : Security Paper Mill.

DISTRICT : Hoshangabad (M.P.).

AWARD

Dated : April 12, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-42012/58/85-D. II(B), dated 30th

March, 1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of General manager, SPM, Hoshangabad in dismissing Shri S. C. Nivasarkar w.e.f. 18-7-1983 is justified or not ? If not, to what relief the concerned workman is entitled to and from what date ?"

2. Admitted facts of the case are that the workman, Shri S. C. Nivasarkar, joined the service at the Security Paper Mill in 1966 as L.D.C. and he was subsequently promoted from the post of Asstt. Store Keeper to the post of Store Keeper in the year 1980. It is also the common ground that the Security Paper Mill used to receive Caustic Soda Lye from Neapanagar Paper Mill; that the storage tanks are inside the mill in Production Department and Store Department used to consume the Caustic Soda. It is also the common ground that the Caustic Soda Lye was supplied by the Transporter's Tankers; that the charge-sheet was issued against the workman on the imputation that the workman, Sri Nivasarkar, while functioning as Store Keeper from 16-4-1980 to 31-3-1981 failed to receive and record the correct quantity of caustic soda lye received by the road transport resulting in loss of over 21000 gallons (over 95,500 Litres) of Caustic Soda Lye and workman also made over payment of freight to the transporters. It is also not in dispute that the Enquiry Officer held that the charges were admitted by the workman and the workman was removed from the service; that the workman filed an appeal which was rejected vide order dated 24-1-1984.

3. The case of the workman is that the Domestic Enquiry was held in breach of rules and principles of natural justice. Charges were not voluntarily admitted by the workman; that the difference in book balance and the physical balance of Caustic Soda Lye was made good by verbal orders of the Dy. Works Manager and Store Officer and as such the workman was wrongly held guilty of the difference of quantity of Caustic Soda Lye in book balance; that the workman has carried out his duties properly; that the finding of the Enquiry Officer holding the workman guilty of the misconduct is illegal and improper; that the punishment imposed on the workman was with malafide intention and arbitrary and unreasonable; that the copies of the documents were not supplied to the workman at the time of the enquiry and the authorities acted mechanically with prejudice mind. Workman has prayed for reinstatement with all consequential benefits.

4. Case of the management is that the Security Paper Mill, Hoshangabad, produces the security papers for printing the currency and bank notes and there are industrial workers, classified staff and other officers in various groups viz. Group A, B, C & D employees; that the workman was StoreKeeper and he was classified staff of Group C; that the

charge-sheet was issued against the workman of making over payment of freight to the transporters and that he failed to receive and record the correct quantity of Caustic Soda Lye; that the charge-sheets were issued against the workman and the workman has admitted the charges that the workman was also admitted the charges in writing at the time of the preliminary enquiry. That the Government was to pay a loss of Rs. 2,41,525.30 P. on account of the alleged misconduct of the workman; that on account of failure of the workman to record the proper quantity of Caustic Soda Lye without verifying its correctness the lesser quantity was received; that the workman who was Store Keeper Incharge of the store function was responsible for the custody and accountability and there was procedure order which was being followed by the Managers; that the workman has not followed the procedure order that the authorities have taken the admission and relating circumstances into account and after application of mind dismissed the workman from service and management has denied with the similar allegations made against other employees and the lenient view was taken against them. Management has alleged that the allegation of discrimination and malafide against the workman in imposing the punishment are false and after thought.

5. Following are the issues in the case :

ISSUES

1. Whether the domestic|departmental enquiry is proper and legal ?
2. Whether the punishment at warder is proper and legal ?
3. Whether the management is entitled to lead evidence before this Tribunal ?
4. Whether the termination|action taken against the workman is justified on the facts of the case ?
5. Relief and costs ?

6. Issue No. 1 & 3 : My learned predecessor vide order dated 16-11-1988 has held that the domestic enquiry was just, proper and legal.

7. The workman filed Writ Petition before the Hon'ble High Court of M.P., Jabalpur and vide order dated 14-9-90 the Hon'ble High Court of M.P. remanded the case for arguments only on quantum of punishment and finding of the Tribunal on the fairness of enquiry was maintained by the Order of Hon'ble High Court dated 14-9-90. Issue No. 1 & 3 are answered in favour of the management as the D. E. was held just, proper and legal.

8. Issue No. 2, 4 & 5 : From the Annexure III i.e. Ex. M/6, Ex. M/7, Ex. M/8 & Ex. M/9, it is clear that the statement of Article of charges, statement of the imputations of misconduct, list of documents and witnesses and the facts constituting the charges were supplied to the workman and the workman has clearly admitted guilt in writing vide Ex. M/13 and Ex. M/14. It is not in dispute that

the workman, Shri S. C. Nivsarkar, joined the service of the Security Paper Mill in 1966 as L.D.C. and he was subsequently promoted as Asstt. Store Keeper in 1967, Head Clerk in 1973 & as Store Keeper in 1980. The workman was senior employee of the management and he was in Group C category, meaning thereby a classified staff of the Security Paper Mill, the serious allegation was made against the workman that while functioning as Store Keeper he signed the full bill quantity without verifying the correctness and that has resulted in the receipt of lesser quantity Caustic Soda Lye valuing Rs. 2,41,525.30. The workman has also clearly admitted the serious allegation of over payment to the transporters. Consequently, the only point to be discussed is whether in view of the alleged proved misconduct the punishment of dismissal of the workman is just, proper and legal ?

9. The Security Paper Mill, Hoshangabad, produces the security papers for printing the currency and bank notes. In this prestigious paper mill of the Government of India, the workman was a classified staff of Group C. The workman has violated the procedure order No. 31 dated 1-5-66 (Annexure 80) which has laid down the procedure of custody and accounting of the material by the Store Keeper. The act and omission of the workman while working as a Store Keeper has resulted in receiving the lesser quantity of Caustic Soda Lye which is used in Production Department of the Security Paper Mill. The loss caused to the factory by the act of the workman was calculated in 1984 to the tune of about Rs. 2,41,525.30 p.

10. The workman has alleged that he has unblemished record of service from 1966 i.e. of more than 16-17 years, the management has alleged that the workman was held guilty for the misconduct and the charges were admitted by him and he was punished for the misconduct vide order dated 23-10-74. Management has further alleged that the workman was involved in the case of theft of Gas Cylinder. In my opinion, the misconduct of the workman in putting the management to the loss of 95000 Ltrs. of Caustic Soda Lye which was the property of the sensitive organisation viz. The Security Paper Mill, is of grave nature and its gravity is further aggravated by the fact that the workman was of classified staff, Group C category, and that he has caused loss which was calculated in the year 1984 as Rs. 2,41,525.30P.

11. The learned Counsel for the workman has alleged that ten other employees who were directly involved in the receipt and storage of the impugned material were charge-sheeted and only the workman was terminated from the service; that the management is guilty of unreasonable discrimination against the workman and the management acted with prejudice and awarded highly disproportionate punishment to the workman. Learned Counsel for the management rightly alleges that the allegation of discrimination in punishment are without any basis and after thought. From the perusal of the charges, it is clear that the only workman viz. Shri S. C. Nivsarkar was accused of shortage of 95000 Ltrs of Caustic Soda Lye and for making over payment to the transporters. The workman

has clearly admitted his guilt and he has not raised the issue that the other officers were also responsible for the alleged misconduct. From the perusal of the charge-sheet, it is clear that the case of the workman, Shri S. C. Nivsarkar, is totally different and independent. However, the charge-sheet issued to the alleged ten co-accused is not filed and there is nothing to show the nature of the imputation against these ten workmen and the facts which were proved in the enquiry against the workman. Consequently, the allegation of hostile discrimination in awarding the punishment is without any evidence on record and it is an after thought. It is pertinent to note in this regard that the plea of discrimination and punishment was not taken by the workman in his statement of claim or before the Hon'ble High Court but after the remand of the case after more than nine years on 5-1-1995 the workman has pleaded that the similarly placed co-workers were awarded the different punishment by the management. The allegation of prejudice or bias against the management are baseless.

12. It is held by the Hon'ble Apex Court in case of 1985(11)LLJ187 that the Tribunal gets the jurisdiction of interfering in the quantum of punishment in case where the punishment is highly disproportionate or it does not commensurate with the proved misconduct.

13. My learned predecessor vide order dated 16-11-88 has observed that the punishment awarded to the workman was neither excessive nor disproportionate. The learned Disciplinary Authority and the Appellate Authority taken into consideration the entire facts and circumstances of the case and imposed the penalty of dismissal. Consequently, I am of the considered opinion that the plea of the workman of clemency in punishment is hopeless and does not deserve any consideration.

14. The action of the management of Security Paper Mill, Hoshangabad, in dismissing Shri S. C. Nivsarkar w.e.f. 18-7-1983 is held justified. Workman is not entitled for any relief. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2170 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गन फैक्ट्री के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एल-14012/6/67 - डी II (बी)]

पी. जे. साईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

CASE REF. NO. 117/89

S.O. 2170.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Gun Carriage Factory and their workman, which was received by the Central Government on 25-6-96.

[No. L-14012/6/87-D.II(B)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

(1) CASE REF. NO. CGIT/LC(R)(78)/1988

(In respect of Shri Govind Prasad, House No. 42, Shanti Nagar, Damoh Naka, Jabalpur, referred vide Notification No. L-14012/5/87-D.2(B) dated 22-7-1988).

AND

(2) CASE REF. NO. CGIT/LC(R)(117)/1989

(In respect of Banshi Lal, House No. 326, East Ghampur, Shitlamai Mandir, Jabalpur (MP) referred vide Notification No. L-14012/6/87-D.2(B) dated 24th May, 1989.

Versus

The General Manager, Gun Carriage Factory, Jabalpur (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen : Shri R. C. Srivastava, Advocate.

For Management : Shri C. K. Sharma, Advocate.

INDUSTRY : Gun Factory DISTRICT : Jabalpur (MP).

AWARD

Dated : April 3, 1996

These are two references made by the Central Government, Ministry of Labour, New Delhi, vide Notifications dated 22-7-88 & 24-5-1989, for adjudication of the following industrial dispute. Both the cases were consolidated vide order dated 20-3-1991.

CASE REF. NO. 78/1988

"Whether the action of the management of Gun Carriage Factory, Jabalpur in compulsory retiring Govind Prasad w.e.f. 27-2-1986 is justified? If not, to what relief the workman concerned is entitled?"

"Whether the action of the management of Gun Carriage Factory in issuing orders for compulsory retirement of Shri Banshilal, T. No. 1946, storeskeeper w.e.f. 4-2-86 is justified? If not, to what relief the concerned workman is entitled?"

2. Admitted facts of the case are that on 30-10-1984 at about 11 a.m. 30 boxes containing Armoid Electrodes valuing more than one lac rupee was unloaded near Steel Scrap Class C near Godown No. 16 and the incident of attempted theft was reported to Security Officer: that the charge-sheet was issued against the workman, Banshi Lal and Govind Prasad along with Murari Lal Sharma & Dashrath Lal for committing gross misconduct of attempted theft of government property, drawing material unauthorisedly from the store of Gun Carriage Factory and committing act subversive of discipline action; that the workmen were suspended and the departmental enquiry was conducted against the workmen and vide impugned order Govind Prasad was compulsorily retired with effect from 27-2-86 and Banshi Lal was compulsorily retired with effect from 4-2-86. The common enquiry was held against the workmen and the Reference No. 117/89 was consolidated with Ref. No. 78/88 vide order dated 20-3-1991.

3. The case of the management is that on 29-10-84 the Security Officer of Gun Carriage Factory found large quantity of material near Scrap Godown No. 16 and after the enquiry the Security Officer reported that the workman Govind Prasad with malafide intention and to commit theft of 28 boxes containing Armoid Electrodes has left it near the Scrap Godown and the workman Banshi Lal; Morari Lal Sharma and Dashrath Lal had conspired and helped in this regard. Departmental Enquiry was conducted against the workmen and the charges of abetment of attempt theft of government property was held established and the workmen were compulsorily retired from the service vide the alleged impugned order.

4. The case of the workman, Govind Prasad, is that the boxes were unloaded near the boundary wall of Godown No. 16 by him and as lister went in break down. The workman, Govind Prasad, has pleaded that there was no ulterior motive of the attempted theft in unloading the boxes near the Godown No. 16. The workman, Govind Prasad, has alleged that he went to No. 16 Godown for shifting the material to V. V. Section after taking his lunch. Workman, Govind Prasad, has alleged that the finding of the Disciplinary Authority for attempted theft of the property of the factory is perverse and not made out.

5. The case of the workman Banshi Lal, is that there is no evidence against him that the lister was demanded by him or that he has helped Govind Prasad in unauthorisedly removed of 30 boxes from the store. Both the workmen have pleaded that the sufficient opportunity to defend the case was not provided by the Enquiry Officer and the enquiry

was conducted against the principles of natural justice. The workman has alleged that the finding of the Disciplinary Authority is perverse and the punishment of compulsory retirement was not called for.

6. Following are the issues framed in both the cases :—

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal ?
2. Whether the punishment awarded is proper and legal ?
3. Whether the management is entitled to lead evidence before this Tribunal ?
4. Whether the termination/action taken against the workman is justified on the facts of the case ?
5. Relief and costs ?

7. Issue No. 1 & 3 : It was held vide order dated 22-2-96 that the principles of natural justice was adhered during the enquiry and the domestic enquiry was fair, proper and legal. Issue No. 1 & 3, were answered accordingly.

8. Issue No. 2, 4 & 5 : The workman, Govind Prasad, has admitted that on 29-10-84 at about 10 a.m. he went to the Store and 30 boxes containing Armoid Electrods, 6 S.W.G, from the Store were issued to him and he along with the lister Driver, Shri A. K. Lal, unloaded the material behind the Lahore Godown of Building No. 16. This fact is fully proved that the place where the boxes were unloaded was near Scrap Store; that the scrap material was being lifted by the contractor; the fact that the sensitive and valuable boxes were left by the workman, Govind Prasad, near the place where the scrap material was being lifted by the contractor is an important circumstances to show that the commission of the theft from such place was highly probable. The unusual route which was circuitous and long was adopted by Govind Prasad for taking the material to the Scrap Store. The material was issued to Govind Prasad without bringing it to stock charge and against the unnumbered demand note. Workman, M.L. Prasad co-accused, who, has expired and Banshi Lal have helped out of way to Govind Prasad to procure the boxes from the store. No sensible or responsible officer will unloaded the valuable and sensitive item of the defence factory near the Scrap Godown where the contractor was engaged to lift the scrap material. Normally such material if required to be unloaded on undesignated place, should be unloaded after due notice to security officer where the chances of theft are minimum. The attending circumstances of the case fully proves the intention of the workman, Govind Prasad, in unloading the boxes near the Scrap Store Office to facilitate the commission of its theft.

9. Management has examined Shri M. L. Sharma (M.W.1), Dev Saran (M.W.2), N. K. Jha (M.W.5) and from the statement of these witnesses along with

the circumstances, charge against the workman, Govind Prasad, is fully proved.

10. Shri N. K. Jha, Supervisor (M.W.5) has stated that on 29-10-84 Banshi Lal came along with Govind Prasad, to M. T. Section and Banshi Lal requested for giving Lister to workman, Govind Prasad. Shri N. K. Jha (M. W. 5) has further stand that on the request of Banshi Lal the Lister was provided to the workman, Govind Prasad. It is not in dispute that Banshi Lal was not supposed to arrange the Lister for Govind Prasad and his conduct of requesting Shri N. K. Jha to provide the Lister to Govind Prasad was uncalled for and against the norms of his duties.

11. Workman, Banshi Lal has denied that he went along with Govind Prasad to provide the lister to Govind Prasad. The denial of the workman is false because there is no evidence to doubt the statement of Shri N. K. Jha, Supervisor. He had no interest to give evidence against the workman, Banshi Lal. Consequently, in the back ground of the fact that the 30 boxes were issued to Govind Prasad without bringing it to stock charge and against unnumbered demand note and subsequently they were unloaded near the scrap store where the contractor was lifting the scrap, it is clear from the act of Banshi Lal of helping out of way to take out the material from the Store, that Banshi Lal was a party to conspiracy to commit the theft of the alleged government property.

12. 30 boxes of Armoid Electrods were certainly valuable and sensitive items of the Gun Carriage Factory which is engaged in defence production. The abundant precaution is required to be observed by the employees of the factory in dealing such sensitive items of defence production. This is not a case of negligence or careless by the workmen. These workmen have actively participated in facilitating the commission of theft of property and they had conspired for the attempt of theft. The conspiracy is always hatched in secrecy. The circumstance speaks louder and sometimes circumstances are more important and better evidence than the oral evidence.

13. It was observed in case of Shivnarayan Laxminarayan Joshi and others Vs. State of Maharashtra and others (AIR 1980 SC p. 439) that "conspiracy is always hatched in secrecy and it is impossible to adduce direct evidence of the same. The offence can be only proved largely from the inferences drawn from acts or illegal omission committed by the conspirators in pursuance of a common design."

14. Therefore, I hold that the action of the Disciplinary Authority in holding both the workman guilty of the misconduct and thereby compulsorily retiring them is proper and justified. Reference are answered accordingly. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून, 1996

their Aligarh Branch, is justified? If not to what relief the workman is entitled?

का. आ. 2171 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कामगारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एन-12012/657/89/डी II B/आई आर बी 2]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2171.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 26-6-96.

[No. L-12012/657/89 DIIA/IR(B-II)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT
DEOKI PALACE ROAD, PANDU NAGAR

KANPUR

Industrial Dispute No. 124 of 1990

In the matter of dispute between

Organising Secretary,
Bank of India Staff Union
C/o Bank of India
Regional Collection Centre
25/38 Karachi Khana
Vishambha House Kanpur.

AND

Regional Manager
Bank of India
Regional Office
Agra.

Shri B. P. Saxena—for the workman.
Shri V. K. Gupta—for the management.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-12012/657/89-IR(B2) dated 24-4-90 has referred the following dispute for adjudication to this Tribunal:—

“Whether the action of the Management of Bank of India Agra, in terminating the services of Shri Balak Das Sepoy-Cum-Hamal at

2. The concerned workman Balak Das in his claim statement has alleged that earlier in October 1982 he was appointed as sepoy-cum-driver by the opposite party Bank of India at Agra Branch after holding his interview on the basis of sponsoring of name by the Employment Exchange. He worked for four years at this post. Thereafter he was issued an order appointment letter for post of sepoy-cum-Hamal at Aligarh branch w.e.f. 16-7-86 on probation for a period of six months which was extended for three months more by order dated 9-1-87. There after his services were brought to an end w.e.f. 15-4-87. It is alleged that the concerned workman would be treated in service right from the year 1982 and so called fresh appointment w.e.f. 16-7-87 should be ignored.

3. The opposite party has filed reply in which nothing has been said with regard to employment between 1982 and 1986 at Agra. Instead it has been alleged that from 16-7-86 the concerned workman was appointed on probation for six months which was later on extended for three months more. During this period his work and conduct was satisfactory. He used to remain absent from duty. Hence after expiry of period of probation his term was not extended. Any way he was given one month's notice pay as required by Shastri Award.

4. The concerned workman has filed rejoinder in which nothing new has been said.

5. With regard to appointment between 1982 and 1986 at Agra, it is true that the management has said nothing in the written statement. The concerned workman has filed papers of appointment and various other papers to show that he had worked during this period. These papers have not been specifically referred as Sohan Lal Agarwal an Officer of the Bank in his affidavit dated 25-6-91 had admitted this fact. Thus it is established that the concerned workman had also worked between 1982 and 1986 at Agra Branch as Driver-Cum-Sepoy.

6. It is also admitted to both the parties that the concerned workman w.e.f. 16-7-86 had worked at Aligarh Branch as Driver-Cum-Hamal in pursuance of appointment letter on probation for period of six months which was later on extended.

7. During the course of argument it was urged that the period of service rendered at Agra should be treated as continuing in service at Aligarh and as such question of appointment on probation does not arise. In this way it should be ignored. This contention can not be accepted as there is no reference in this regard and certainly this court cannot go beyond the reference.

8. Thus the matter remain that the concerned workman had worked in all for nine months on probation and his services came to an end after expiry of period of probation which certainly does not amount to termination. Further a workman has not legal right to continue in service after expiry of period of probation if his work is not found satisfactory. The concerned workman in his evidence and pleadings has

admitted that during the period of probtaion he had to remain absent for some compelling reason. In this contest the concerned workman was all the more not entitled for continuance in service.

9. For the above reasons my answer to the first part of reference is in affirmative and the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2172.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण विशाखापटनम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-12012/217/92-आईआरबी 2]

पी. जे. माइकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2172.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workmen, which was received by the Central Government on 26-6-96.

[No. L-12012/217/92-IR(B-II)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, VISAKHAPATNAM

PRESENT :

Smt. G. Jaishree, B.Sc., LL.M.,
Chairman & Presiding Officer.

Wednesday, the 12th Day of June, 1996

I.T.I.D. No. 2/93(C)

BETWEEN :

P. Satyanarayana,
S/o, Sri Ramulu,
Kadali Pennamanada,
East Godavari Dist.
Pin : 533 248.

.. Workman.

AND

The Regional Manager,
Indian Bank,
Regional Office, 16,
T. S. N. Colony,
Visakhapatnam.

.. Management.

This dispute coming on for hearing before me in the presence of Sri V. Satya Rao, advocate for

workman and Sri M. N. Aditya, advocate for management but both sides called absent, the court passed the following :

AWARD

Both sides called absent. No representation. Hence I. D. is closed and Nil Award is passed.

Given under my hand
and seal of the court
this the 12th day of
June, 1996.

G. JAISHREE, Chairman & Presiding Officer

नई दिल्ली, 27 जून, 1996

का. आ. 2173.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बरोडा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/6/96 को प्राप्त हुआ था।

[सं. एल-12012/329/90-आईआर (बी II)]

पी. जे. माइकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2173.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 25-6-96.

[No. L-12012/327/90-IR(B II)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.
REFERENCE NO. CGIT-2/30 OF 1991

BETWEEN :

Employers in relation to the management of
Bank of Baroda

AND

Their workmen.

APPEARANCES :

For the employer : Shri S. K. Talsania, Advocate.
For the workman : No appearance.

Mumbai, dated 5th June, 1996
AWARD PART-II

On 9-10-95, by Part I Award, I came to the conclusion that the enquiry held against the workman was as per the principles of natural justice and the enquiry officer was an impartial person.

2. The fact which lead to the above said findings can be summarised as follows: Bhiwalkar was appointed in Bank and later on chargesheeted. He was chargesheeted for the misappropriation of income tax account and misappropriation of M. T. account of Rs. 5,000/-. The enquiry Officer found him guilty on the basis of evidence before him and submitted his report. The management accepted the report and passed an order of dismiss.

3. Now the issues remained to be answered and the findings thereon are as follows :

ISSUES	FINDINGS
(3) Whether the Appellate Authority hurriedly dismissed the appeal of the workman?	No.
(4) Whether the action of the the management of Bank of Baroda in terminating the services of Shri P.S. Bhiwalkar is justified ?	Yes.
(5) If not, to what relief is the workman entitled ?	Does not survive.
(6) What Award ?	As per order below.
REASONS	

4. After the Award Part-I was passed the matter was adjourned from time to time on several occasions. The workman wanted to file the affidavit to prove these issues, but he did not file the same. The notices were sent to him for remaining present in the Court. On the last occasion when he remained present and as the Tribunal was on leave, the matter was adjourned to today. The worker remained absent. The Learned Advocate for the management is present, the advocate for the worker is also absent. That clearly goes to show that the worker does not want to lead any evidence to prove these issues. As there is no materials before me, I answered the issues as stated above. In the result, I pass the following order.

ORDER

The action of the Management, Bank of Baroda in terminating the services of T.S. Bhiwalkar is justified.

No order as to cost.

S. B. PANSE, Presiding Officer

नई दिल्ली, 27 जून, 1996

का.आ. 2174.—श्रीद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक आफ इंडिया के प्रबन्धकों

के संबद्ध नियोजकों और उनके कर्मचारी के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/6/96 को प्राप्त हुआ था।

[संख्या एल-12012/548/88-डी 2(A)]

पी.जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2174.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 25-6-96.

[No. L-12012/548/88-D-II(A)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(91)/1989

BETWEEN :

Shri Durga Prasad Pali, Peon, represented through Shri P. N. Sharma, President, M. P. Bank Employees Association, 551, Gorakhpur, Jabalpur (MP)-482001.

AND

The Regional Manager, Central Bank of India, Post Box No. 2, 7 Civil Lines, Sagar (MP)-470001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri P. N. Sharma.

For Management : Shri Necraj Vegad, Advocate.
INDUSTRY : Banking DISTRICT : Sagar (MP).

AWARD

Dated : April 2, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/548/88-D-2(A) dated 28-4-89, for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the action of the management of Central Bank of India in terminating the services of Shri Durga Prasad Pali, Peon, is justified ? If not, to what relief is the workman entitled ?”

2. The case of the workman is that Shri Durga Prasad Pali was employed as full time Peon at

Narsinghpur Branch of the Central Bank of India on 1-12-84 and he has continuously worked upto 13-12-87. The case of the management is that the workman, Durga Prasad Pali, was a casual worker for sometime for time gap urgency in the Bank. Management has further alleged that the appointment order was not issued to the workman and his name was not sponsored by the Employment Exchange and that he was over age and did not have the requisite qualification; that the workman was on day to day contract and he was not selected by the oral or written test.

3. Terms of reference was made the issue in the case.

4. The workman has examined himself and management has examined Shri V. V. Halve. Parties have filed written arguments.

5. Workman has not led any evidence to show that he was employed as a full time Peon. Management has filed the details of wages paid to the workman, Durga Prasad Pali and from the perusal of the details, it is clear that he has worked for 20 or 22 days in a month and he was paid the wages for the days he has worked. Workman has admitted the detail of wages paid to him and as such from the detail of wages, it is clear that the workman was a full time Peon. Workman has admitted in his cross-examination, that the order of appointment was not issued to him and the G.P.F. was not deducted from his wages. Shri V. V. Halve has clearly stated that the workman was holding the post of Peon and he was asked to the casual work in the Bank for time to time. From the statement of Shri Halve and the workman, it is clear that the age of the workman in the year 1984 was 31 years. Workman has not appeared in any interview nor his name was sponsored by the Employment Exchange.

Consequently, it is clear that the workman, Durga Prasad Pali, was a casual worker and he has wrongly stated in the statement of claim that he was appointed as a full time Peon.

6. From the perusal of admitted documents i.e. detail of wages of the workman, it is clear that he has worked for few days in a month in the year 1985 and 1986. The workman has not produced any documentary evidence to show that he has continuously worked for more than 240 days in a calendar year. The workman was not required to sign the attendance register. From the affidavit of Shri V. V. Halve, it is clear that he was appointed to do the casual work in the Bank for sometime due to urgency requirement. From the discussion, it is clear that the workman has not continuously worked for more than 240 days in a calendar year. However, from the aforesaid circumstances and the statement of Shri Halve, it is clear that the workman was on daily wages and he was paid for the day he used to work.

7. The Hon'ble High Court in case of State Bank of India Vs. CGIT, Jabalpur (Petition No. 4908/89) vide order dated 27-7-1994 has held that the daily engagement for a fixed date depends upon daily vacancy and the contract comes to an end

after the expiry of the day; that the termination of services of such daily wages employee is not a retrenchment within the meaning of Sec. 2(oo) (bb) of the I. D. Act. Consequently it is held that the termination of the workman without paying him the retrenchment compensation or giving him the required notice was not in violation of Sec. 25-F of the I. D. Act.

8. The action of the management in terminating the services of Shri Durga Prasad Pali is justified. Reference is answered in favour of the management. Workman is not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer.

नई दिल्ली, 27 जून, 1996

का.आ. — 2175 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 25/6/96 को प्राप्त हुआ था।

[संख्या एल-12012/420/90 आई आर (बी 2)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2175.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 25-6-1996.

[No. 12012/420/90-IR (B-2)]

P. J. MICHEAL, Desk Officer.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

CASE REF. NO. CGIT/LC(R)(26)/1991.

BETWEEN :

Shri Vimal Kumar Jain S/o. Shri Sunderlal Ji, Post Daloda Railway Station, Mandsaur, (M.P.).

AND

The Regional Manager, Central Bank of India, Regional Office, Ratlam, (M.P.).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman : Himself.

For Management : Shri Kapoor & Shri G. S. Yadav.

INDUSTRY : Banking DISTRICT : Madsaur
(M.P.)

AWARD

Dated : April, 24, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012/420/90-IR(B. 2), dated 14-2-1991, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Central Bank of India in discharging Shri Vimal Kumar Jain from the services of the Bank is justified ? If not what relief the workman is entitled to ?”

2. Admitted facts of the case are that the workman, Vimal Kumar Jain, was a workman and he was working as the part time subordinate in the Bank; that on 19-8-1988 the workman was served with the charge-sheet on the allegation of defalcation of Rs. 100 and pilfering the counterfoil of Rs. 100/- from the possession of the Branch Manager and thirdly on the allegation that the workman issued the withdrawal of Rs. 200/- knowing well that he did not have sufficient balance to his credit.

3. The case of the workman is that the false and fabricated case was engineered against the workman; that the workman has not dishonestly withdrawn Rs. 200/- from his account ; that the workman has not destroyed the counterfoil and he has not misappropriated Rs. 100/- given to him by the customer Shri Hastimal Jain. Workman has alleged that the Enquiry Officer has not provided him the opportunity to defend the case and the Enquiry Officer committed breach of principles of natural justice : that the punishment does not commensurate with the alleged gravity of misconduct. Workman has prayed for his reinstatement with full back wages.

4. Case of the management is that the customer of the Bank, Shri Hastimal Jain, made the written complaint dated 7-8-1988 that Rs. 100/- was given by him to the workman for the payment of his loan instalment and the workman has not deposited Rs. 100/- against his loan account ; that the workman has committed fraud with the Bank by misappropriating Rs. 100; that the workman knew that there was no amount to his credit and he has issued withdrawal for Rs. 200/- and took out the money dishonestly.

5. Case of the management further is that the workman has destroyed counter foil of Rs. 100/- and the counter foil was taken by the workman

without the knowledge of the concerned employee the management has alleged that the enquiry officer has provided to the workman opportunity to defend the case and that the enquiry was conducted as per rules and in accordance with the principles of natural justice. Management has further alleged that the Bank deals with the public money and the gross misconduct of the workman with the malafide intention and ulterior motive needed severe punishment so as to discourage such incidence.

6. Following are the issues framed in the case :—

ISSUES

1. Whether the enquiry is proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Belief and costs ?

7. Issue No.1 :—Domestic enquiry was held just. proper and legal vide order dated 28-2-1995.

Issue No. 1 & 2 were answered in favour of the management.

8. Issue No. 3, 4 & 5 :—Workman has returned Rs. 100/- to the customer, Shri Hastimal Jain, after the written report was made by the customer on 7-11-1988. Shri Hastimal Jain has clearly state that a sum of Rs. 100/- was given by him to the workman for repayment of the loan instalment, the workman gave the receipt of Rs. 100/- to Shri Hastimal Jain. The receipt was in the handwriting of the workman. It is not in dispute that the amount of Rs. 100/- was not deposited by the workman in the Bank. Consequently, the Enquiry Officer was justified in holding that the workman has misappropriated Rs. 100/-. Shri Hastimal Jain has stated that the counter foil was destroyed by the workman. Management witness Shri L. N. Dewra, Chief Cashier, has clearly stated that the counter foil was taken from his custody without his knowledge by the workman, the management has succeeded in proving that the workman has withdrawn Rs. 200/- and that the workman did not have sufficient balance to his credit. Management has examined Shri R. V. Ghatgade (M.W.-2) and Shri D. K. Verma (M.W.-3) filed the withdrawal form signed by the workman. Workman has not led any evidence to substantiate his defence. Consequently, from the oral evidence of M.W.-2 & M.W.-3 and from Ex. M/10, it is clear that the workman has withdrawn Rs. 200/- by misrepresentation of the fact and misleading the Head Cashier of the Bank.

9. Learned Enquiry Officer has extensively dealt oral and documentary evidence and discussed the defence evidence and rightly concluded that all the charges against the workman are proved.

10. Employees of the Bank indulging in such misappropriation with fraudulent intention needs exemplary punishment. The action of the management in discharging the workman from service was appropriate and commensurate with the proved misconduct. The management was justified in discharging the workman from service. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer.

नई दिल्ली, 27 जून, 1996

का.प्र. 2176 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबन्धकों के संबंध में नियोजकों और उनके कर्मचारियों के बीच मनुवर्ग के निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम जबलपुर के पंचम को प्रकाशित करती है जो केन्द्रीय सरकार का 25-6-96 को प्राप्त हुआ था।

[संख्या एल-12012/734/88-डी 2) (A)]

पी.जे. माइकल डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2176.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 25-6-96.

[No. L-12012/734/88-D-2(A)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(85)/1989
BETWEEN :

Shri R. K. Saxena, Gird Branch and Shri K.P. Gupta, Head Clerk Aswar Branch represented through the Zonal Secretary, M.P. Central Bank Employees Association, A-15, Chaikpuri, Jhansi Road, Gwalior (MP) 474009.

AND

The Regional Manager, Central Bank of India, Jayendraganj, Gwalior (MP)-47009.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri J. K. Sharma.

For Management : Shri N. P. Mittal, Advocate.

INDUSTRY : Banking DISTRICT : Gwalior
(MP)

AWARD

Dated : April 3, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012/734/88-D. 2(A) dated 2nd May, 1989, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Central Bank of India in debarring S/Shri R. K. Saxena, Clerk, Gird Branch and K.P. Gupta, Head Clerk, Aswar Branch from appearing in state service promotion test is justified? If not, to what relief are the concerned workmen entitled?”

2. Admitted facts of the case are that the workman, Shri R. K. Saxena, was held guilty of gross misconduct and the final order of his punishment was issued on 26-6-84. It is also not in dispute that the workman, Shri Saxena, was debarred from the promotion for three years in view of para 20.1 of the Promotion Policy Agreement on account of his punishment of gross misconduct; that the debarred period of the workman, Shri Saxena, expired on 26-6-87 that the management has circulated a seniority list as on 1-9-84 showing that the workman, Shri Saxena, was debarred from promotion upto 26-6-87. It is also the common ground that the management has not included the name of the workman in the seniority list as on 1-1-87 and the case of the workman, Shri Saxena, was not considered for the promotion in the year 1987; that Shri R. B. Srivastava who was junior to Shri Saxena was promoted with effect from 1-12-87.

3. The case of the workman is that his debar period had expired on 26-6-87 and the management had no authority to extend the period of his debarment which was three years as per para 20.1 of Promotion Policy Agreement; that the action of the management in not including the name of the workman in the seniority list on 1-1-87 was unjustified and the workman was wrongly denied the promotion in violation of the Promotion Policy Agreement. The workman has prayed that the management be directed to promote the workman on the post of Junior Manager Gr. I from 1-12-87 to 29-12-88. The case of another workman, Shri K. P. Gupta has not been pressed by the Union.

4. The case of the management is that the Central Office of the management signed a Memo of Settlement dated 24-6-86 which provided that the seniority list shall be drawn up one in a year as on January 1st of every year. Since Shri R. K. Saxena was not promoted because of debarment upto 26-6-87 on account of his gross misconduct, his name was not included in the said seniority list on 1-1-87! that the management has not increased the period of debarment of the workman and the name of the workman was not included in the seniority list as per provisions of Settlement dated 27-1-83; that Shri Saxena has been

promoted to officer grade w.c.f. 30-12-88; that the name of the workman for promotion from 1-1-87 is unjustified and not proper.

5. Terms of reference was made the issue in the case.

6. Another workman, Shri K. P. Gupta, has not pressed his claim. Parties have admitted the documents and they have also filed the written arguments.

7. It is not in dispute that the debarment period of the workman, Shri Saxena, had expired on 26-6-87. The case of the management is that the name of the workman, Shri Saxena, was not included in the seniority list dated 1-1-87 as the period of his debarment had to expire after six month i.e. 26-6-87. The workman was entitled for the consideration of his case for promotion in the year 1987, but the case of the workman was not considered for the promotion on account of the fact that his name was not included in the seniority list dated 1-1-87.

8. The point for consideration is whether the management was justified in not including the name of the workman in the seniority list dated 1-1-87. Prima facie, it appears that the workman whose period of debarment expired on 26-6-87 was entitled to be considered for his promotion after 26-6-87 in the year 1987. The management has not considered the case of the workman for promotion in the year 1987 because his name was not included in the seniority list prior 26-6-87. The settlement dated 24-6-86 entered into by the management and the recognised majority union. All India Central Bank Employees Federation, provides that the seniority shall be drawn once a year as on January 1st of every year. Clause 1.70 of Promotion Policy Agreement envisages that the seniority list once drawn and displayed in terms of the settlement shall not undergo any change thereafter till the next seniority list is disclosed. Consequently, it is clear that in view of Cl. 1.70 of the Promotion Policy Agreement and the Settlement dated 24-6-86, the management had no right to include the name of the workman in the seniority list dated 1-1-87 as the period of debarment of the workman was to expire six months after the seniority list. The management has rightly declined to consider the workman, Shri Saxena, for his promotion in the year 1987 on account of the non-inclusion of his name in the seniority list dated 1-1-87.

9. This has certainly resulted in the extension of the statutory period of debarment of three years which was expired on 26-6-87. The workman was made to suffer the period of debarment of more than three years on account of the settlement dated 24-6-86 between the Union of the workmen and the Management. Such injustice of the unnecessary extension of the period of debarment of more than three years can only be removed if it does not affect the right of other employees claim and smooth administration. In case of the inclusion of the name of the workman in seniority list of 1-1-87, the case of other employees would have unnecessary delayed. The requirement is that the management should display the seniority list and notice to that effect is issued. The promotion of the deserving candidate on due date is essential for the smooth administration. The workman was going

under the disqualification on account of his punishment for gross misconduct while other co-employee had no such stigma. Equity favours the innocent, and they should not be allowed to suffer on account of the case of an individual who was undergoing the period of his disqualification on account of the misconduct. This case if considered in totality, and in holistic manner i.e. taken into consider the innocent employee and the smooth administration, then it will be clear that the alleged injustice to the workman, Shri Saxena, of the impiled extension of debarment of six months is not of that serious nature. The smooth administration of the management and the rightful claim of the innocent employee of promotion cannot be allowed to adversely effect on account of such anomalous situation. However, the action of the management in not including the name of the workman in the seniority list is in accordance with the Memo. of Settlement dated 24-6-86 and the Cl. 1.70 of Promotion Policy Agreement.

10. Consequently, it is held that the action of the management in debarring the workman Shri Saxena, from appearing in the promotion test was not unjust. Workman is not entitled for any relief. Parties to bear their own costs.

Reference is answered in favour of the management.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली 27 जून, 1996

का.आ. 2177 औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ महाराष्ट्र के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपर को प्रकाशित करती है जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संख्या एल-12011/59/94-आई आर (बी 2)]

पी. ज. माइकल डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2172.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award the management of Bank of Maharashtra and their Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 25-6-1996.

[No. L-12011/59/94-IR(BII)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP).

CASE REF. NO. CGIT/LC(R)(57)|1995

BETWEEN

Shri V. K. Tiwari represented by Shri S. K. Mutreja, Asstt. General Secretary, Madhya Pradesh Bank Employees Association C/o Bank of India, Napier Town, Jabalpur (MP).

AND

The Regional Manager, Bank of Maharashtra, Wright Town, Jabalpur (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri S. K. Mutreja. | Sh. S.K. Gupta.

For Management : Shri D. N. Kutaphale.

INDUSTRY : Banking

DISTRICT : Jabalpur (MP).

AWARD

Dated : April 4, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12011|59|94-IR.B-2 dated 20th March, 1995, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Bank of Maharashtra, Jabalpur in not assigning the allowance carrying post of Cashier Incharge to Shri V.K. Tiwari at Sanjivini Nagar Branch w.e.f. 10-9-93 is legal and justified? If not, to what relief is the said workman entitled?”.

2. The case of the workman is that he is an Ex-Serviceman and the senior most eligible clerk, but the management has not assigned him duty of allowance carrying post of Cashier-in-charge.

3. The General Secretary of the Union made an application dated 21-3-96 before this Tribunal for the withdrawal of the case. However, on 25-3-96 the workman, Shri V. K. Tiwari, filed the application that the withdrawal of the case is being done by the Union without his consent or the required authority.

4. From the terms of reference it is clear that the dispute was espoused by the M.P. Bank Employees Association, Shri S. K. Mutreja, Asstt. Secretary of M.P. Bank Employees Association who has espoused the case has authorised Shri Santosh Kumar Gupta, Regional Secretary of Bank of Maharashtra to represent the case vide letter dated 25-8-95. Shri S. K. Gupta appeared on 21-3-96 and made oral and written request to unconditionally withdraw the case. Consequently, looking to the nature of the dispute, the Union had a right to pursue the case and the individual workman, Shri V. K. Tiwari, has no locus standi to challenge the withdrawal of the case by the Union which has espoused the dispute relating to the allowance post to the workman.

5. Consequently, no dispute award is passed. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 27 जून 1996

का.आ. 2178.—औद्योगिक विवाद अधिनियम, 1947 (1947 क 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक आफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संख्या एल-12011/52/89-डो-II(A)]

पी.जे. माईकल डेस्क अधिकारी

New Delhi, the 27th June, 1996

S.O. 2178.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 25-6-96.

[No. L-12011|52|89-DII(A)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP).

CASE REF. NO. CGIT/LC(R)(55)|1990

BETWEEN

President, All India Central Bank Employees Federation, 129, Lal Kurti, Ambala Cantt.

AND

Regional Manager, Central Bank of India,
Regional Office, Jayendra Ganj, Gwalior (MP)-474 009.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Union : Shri P. K. Jain.

For Management : Shri N. A. Rawal.

INDUSTRY : Banking **DISTRICT :** Gwalior (MP).

AWARD

Dated : 3-4-1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12011/52/89-D-2(A) dated 14-2-90, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the supersession for State service promotion of Shri S. C. Gupta, P. R. Trivedi, K. Aras and B. K. Bartaria Clerks working at Lohar, Old Gwalior, Gird and Gwalior by the management of Central Bank of India, Gwalior is justified ? If not, to what relief are the workmen concerned entitled ?”

2. Admitted facts of the case are that the workmen S/Shri S. C. Gupta and B. K. Bartaria initially appointed as a Clerk in the Bank on 1-5-78. It is also not in dispute that the workmen were required to exercise option in writing on the appointment in the Bank under Cl. 4.11 of Promotion Policy Agreement; that as per Cl. 4.11 of Promotion Policy Agreement these workmen have given the option in writing for inclusion of their seniority in Accounts Section. It is also not in dispute that these workmen were given an offer by the management for posting as Head Cashier vide Annexure A; that the workmen did not accept the posting of Head Cashier; that the workman was issued letter Annexure B by the management whereby they were debarred from officiating/posting to any post in Cash Department only for a period of three years from the date of their appointment. It is also the common ground that the management issued a letter to the workmen, marked Annexure 'C' whereby they were placed under debarment for both the sides i.e. Accounts Section and Non-accounts Section for a period of three years from the date of earlier refusal by them from accepting the post of Head Cashier 'C'. It is also the common ground that the management did not give any show cause notice to these workmen before debarring them promotion in Accounts Section on the basis of their refusal to

work as Head Cashier. It is also a common ground that the workmen, S/Shri K. Aras and P. R. Trivedi were not included in this petition and they have not pressed their claim under the reference.

3 The case of the workman is that their option for working in Accounts Section was irrevocable that management has no right to debar the workman from the promotion in Accounts Section on account of the refusal to work as Head Cashier that the seniority in the Accounts Section and the Cash Department is separate; that Cl. 4.11 of Promotion Policy Agreement has also laid down that the option will be irrevocable; that the management has illegally debarred them vide letter Annexure C for a period of three years for not accepting the post of Head Cashier 'C'; that the action of the management was also not proper as the debarment was without giving the show cause notice.

4. The case of the management is that S/Shri S. C. Gupta and B. K. Bartaria were not discriminated and the Bank has strictly acted according to the terms of Settlement arrived at between the Union and the Bank.

5. Terms of reference was made the issue in this case.

6. Parties have admitted the documents and have not led any oral evidence.

7. It is true that as per Cl. 4.11 of Promotion Policy Agreement the option to work in Accounts Department or Cash Department was irrevocable, but after the alleged Agreement dated 20-12-75 much water has flown and the Union and the Bank has made the modification under Cl. 4.11 of Promotion Policy Agreement. It is clear that the workmen are aware of the subsequent amendment by the Union and the Bank in the settlement arrived at (a) 23-4-84 (b) 25-2-84 (c) 10-4-85 and (d) 15-2-86. Both these employees were appointed prior to 31-8-81 and as such as per Chapter IV of Agreement dated 25-2-84 they were provided an offer of the post of Head Cashier; that Agreement dated 10-4-85 Cl. 10.31 inserted in the Promotion Policy and accordingly these workmen were debarred for three years from the date of such refusal. Thus, it is clear that the action of the management in debarring the workmen for three years was in accordance with the Agreement dated 10-4-85 of the Promotion Policy.

8. The point of irrevocability of the option does not exist in the subsequent Agreement and from the Schem of the subsequent Agreement, it is clear that it was made revocable the debarment of the workmen were condoned vide Agreement dated 5-2-86 after adding new Cl. 10.3(b). It was laid down in the Agreement

dated 15-2-86 that debarment will be lifted provided refusal was made between 1-3-84 to 30-6-85. The subsequent agreement dated 5-2-86 impliedly confirms that the Cl. 4.11 of Promotion Policy Agreement under which the option was made irrevocable was subsequent made revocable.

9. From the Agreement dated 5-2-1986 it is clear that the names of the workmen were included in the seniority as on 1-3-86. The provisions of debarment of the workmen was in accordance with Cl. 10.3(a) and Cl. 10.1 & 15.1 that the Union of the workmen has further modified the new clause 13.3(b) to the subsequent agreement dated 5-2-86. The workmen have suffered the debarment as account of the subsequent Agreement made by the Union of the workmen on 23-4-84 and thereafter. However the management has provide the required relief to the workmen by entering into the Agreement dated 5-2-86. There was no provision of issuing the show cause notice in Cl. 10.3(a) inserted vide Agreement dated 5-2-86. The workman have suffered the interest of their workman in subsequent agreements.

10. This is not as individual dispute it was espoused by the Union. It is on account of the subsequent agreement by the Union with the management these workmen have suffered the impugned debarment, the fault lies with the Union. The Union has rectified the matter vide agreement dated 5th February, 1986 after adding the new Cl. 10 3(b). Consequently, there is no valid ground to challenge the impugn action of the management.

11. The supercession of the workmen for State Service Promotion working at Lohar. Old Gwalior, was in accordance with the provision laid down and not unjustified. Reference is answered in favour of the management. Workmen are not entitled for any relief. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का. आ. 2179—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन भार्टाईम इन्टरप्राइज प्रा. लि., फार्वर्ड एंड कम्बेल कं. लि. एवं एडवर्ड केलिन टोकियो के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संख्या एल-31012/27/92-आईआर (एम)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2179.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Maritime Enterprises Pvt. Ltd., Forbes Campbell and Co. Ltd., and NYK Line, Tokyo and their workman, which was received by the Central Government on 25-6-1996.

[No. I-31012/27/92-IR (M)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-52 of 1993.

PARTIES :

Employers in relation to the management of M/s. Indian Maritime Enterprises Pvt. Ltd., M/s. Forbes Forbes Campbell and Co. Ltd., and M/s. NYK Line, Tokyo

AND

Their workmen.

APPEARANCES :

For the Management—Shri Pota, Advocate for Forbes, Forbes Campbell and Co. Ltd. Shri S. V. Alva for N.Y.K. Lines Tokyo Ltd.

For the Workmen—No appearance.

INDUSTRY : Shipping STATE : Maharashtra

Mumbai, the 6th day of June, 1996

AWARD

None—for union.

Shri Pota—for Forbes, Forbes Campbell and Co. Ltd. Shri S. V. Alva—for N. Y. K. Lines Tokyo Ltd.

Heard the learned counsel for the parties. It may be stated that the union last appeared in this Tribunal on 8-11-95 and it has not appeared since 8-12-95 even though the case had been adjourned a number of times.

2. The appropriate Government has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. Indian Maritime Enterprises Pvt. Ltd. M/s. Forbes Forbes Campbell and Co. Ltd., and M/s. NYK Line, Tokyo—in terminating the services of Shri Radha-Krishnan and other 12 workers by the former company and refusing to absorb all the 13 workmen the latter Company consequent upon transfer of the entire NYK Lines Operation is just, legal and proper? If not, to what relief are these workmen entitled to?"

3. The union filed its claim on 18th August, 1994 wherein the entire relief was claimed against a company known as M/s. Tata NYK Transports Systems Ltd, which is said to be managing the shipping works at ports.

4. Relief was claimed by the union only against the said company viz. M/s. Tata NYK Transport Systems Ltd. and not against the other companies, who are parties to the list.

5. The said company viz. M/s. Tata NYK Transport Systems Ltd. is not a party to the dispute as referred.

6. The union, by order dated 8-12-95 was directed to implead the said M/s. Tata NYK Transport Systems Ltd. as a party and was also directed to furnish its address etc.

but that has also not been done. Thus, it appears that the union is not interested in prosecuting its claim against any party. The parties, which have been joined in the dispute by the order of reference—against them no relief has been claimed. The only party against whom relief has been claimed, has not been joined as a party. Hence, I find that the claim has not been established. The workmen are not entitled to any relief. Award is made accordingly.

R. S. VERMA, Presiding Officer

नई दिल्ली, 28 जून, 1996

का. आ. 2180.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत एल्यूमिनियम कं. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संख्या एल - 43012/38/85 - डी - III (बी)]

पी. जे. मार्शल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2180.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bharat Aluminium Co. Ltd., and their workman, which was received by the Central Government on 25-6-96.

[No. L-43012/38/85-D.III(B)]

P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

Case Ref. No. CGIT/LC(R)(196)/1987

BETWEEN :

Shri Pande represented through the General Secretary, Balco Karamchari Sangh Qr. No. 177/A, Sector-3, P. O. Balconagar Korba, Distt. Bilaspur (MP)-495 684.

AND

The General Manager, Bharat Aluminium Co. Ltd., P.O. Balconagar, Korba, Distt. Bilaspur (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman.—Shri H. B. Agarwal, Advocate.

For Management.—Shri R. Menon, Advocate.

INDUSTRY : Aluminium. DISTRICT : Bilaspur (MP).

AWARD

Dated, 14th May, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-43012/38/85-D.III(B) Dated 24th Sept. 1987, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether Union's demand of Shri Pande's promotion from December, 1972 is justified ? If yes, what

relief the workman is entitled to ? If not, then from which date ?”

2. Admitted facts of the case are that the workman, Shri S. D. Pande, was recruited in Amarkantak Mine as a Compressor Operator in the work charge establishment. It is also not in dispute that the management has not given the seniority to the workman in the Korba Plant. It is also the common ground that the workman, Shri Pande, who was transferred from Mines to Korba Plant; that the workman filed the case before the Labour Court, Bilaspur and against the order of the Labour Court (Ex. M/13) the workman again filed an appeal before the Industrial Court, Indore and the judgment of the Appellate Court dated 22-3-84 is Ex. M/14.

3. Case of the workman is that the Mines and Plants of Aluminium Co. are under the same management and there is a combined seniority of the workers in Plant and the Mines; that the promotion are made on the basis of the combined seniority of the workers in the Plant and the Mines of aluminium; that the workman was working as a Compressor Operator and he was not given the promotion as per interim promotion policy of 1976; that the co-workers who were juniors to the workman were promoted; that the workman is an active union worker and the management has maliciously denied the workman promotion from 1972.

4. Case of the management is that for the purpose of seniority and promotion mines establishment and Korba Plants are two separate and independent establishment; that there is no combined seniority for these two establishments and separate seniority is maintained for those two establishments; that the workman, Shri S. D. Pande, completed the eligibility for promotion on 25-1-74; that Shri Pande, workman, was called for test/interview to consider his promotion, but Shri Pande did not appear in the test/interview and other persons who appeared in test interview were promoted in accordance with the provisions of conciliation settlement dated 20-9-70. Management has further alleged that the workman, Sri Pande, refused to appear in test/interview held on 8-11-79, 5-7-84, 13-8-84, 20-9-84, 29-12-84, 17-3-85, 8-7-85, 30-12-85, 18-4-86, 2-7-86, 22-8-85, 29-12-86, 17-2-87, 6-7-87, 28-8-87 and 28-12-87; that the workman having refused to attend or appear for the test should not have any grievance if his colleagues who appeared in the test were promoted. Management has further alleged that the workman has raised the dispute of his promotion from 1972 after long delay in the year 1984; that on account of lapse of time it is very difficult and unpracticable to consider the unsettled things which have already been finalised.

5. Terms of reference was made the issue in the case.

6. Workman has examined himself and the management has examined Sri H. L. Mahajan (M.W.1) and Gyanendra Singh (M.W.2).

7. It is clear from Ex. M/26 & Ex. W/19 that the workman applied and selected for the post of Compressor Operator and he was appointment in the mines establishment. Gyanendra Singh (M.W.2) Personnel Manager of Balco has clearly stated that the Plant and Mines are two different and independent establishment and separate list for the purpose of promotion is maintained for the Mines and Plants. From the statement of Gyanendra Singh and Ex. M/27, it is clear that the workman was confirmed in the establishment of mines and his seniority was fixed in the establishment of mines. Ex. M/34 is the Settlement with regard to promotion policy and rules. This document Ex. M/34 is a material document and C1.2, C1.2.1 and C1.6.2 relate to the promotion of the Compressor Operator viz the case of the workman. Channel of promotion is given in L.O.P. Chart I Ex- M/34, first promotion from Compressor Operator is to the post of Drill Operator Gr II and for this promotion, Promotion Committee is constituted to consider the eligibility of the promotion of Compressor Operator. From Ex. M/40 to Ex. M/68, it is clear that more than 29 opportunities were provided by the management from 8-11-79 to 28-12-87 to the workman to appear before the Committee for the test/interview. It is not in

dispute that Sri Pande has refused to appear in test|interview. From the statement of the Gyanendra Singh and Ex. M|37 and Ex. M|38, it is clear that the promotion of the workman from the post of Compressor Operator was subject to the interview and the test. This was in accordance with the conciliation settlement Ex. M|34.

8. The workman is responsible for the denial of his promotion from the post of Compressor Operator as he repeatedly refused to appear before the Promotion Committee as provided under the Settlement Ex. M|34. For the purpose of promotion there is and there should be policy and procedure and nobody can claim promotion without complying with the settled rules of promotion. The promotion was not a right of the workman and it was not automatic, but subject to the condition laid down in Ex. M|34. It is clear that the workman has chosen to remain as a Compressor Operator and voluntarily abstained from appearing in the test|interview before the Promotion Committee as per Ex. M|34. Consequently the workman is not entitled for his promotion right from 1979 to 1987.

9. The workman has not explained the inordinate delay of more than 12 years in raising the dispute for his promotion. It is surprising that the colleagues of the workman who appeared in the test were promoted from the post of Compressor Operator after facing interview, but the workman, Pande, abstained from facing the required interview|test. The workman has made a vain attempt by filing the case before the Labour Court of his transfer and denial of seniority by the management. From the perusal of the order of the Labour Court, Bilaspur (Ex. M|31) and Judgment dated 22-3-84 (Ex. M|32) to Industrial Court, Indore it is clear that the workman requested his transfer to the Plant from the mines; that the workman was rightly denied the seniority in the Plant. All these circumstance establishes that the workman had made an attempt to mislead the Tribunal of showing the malafide and prejudice of the management in order to make out a case of his promotion. It is clear that the workman was responsible for the plight of not getting the promotion. The workman has voluntarily abstained to face the required test|interview for getting the promotion on account of some ulterior motive or vested interest which had developed on the post or place of posting. In case of Dr. C. M. Nath Vs. Dr. S. Kakkar (1996) SCC 229 it is observed that smooth functioning and efficient management of the institution should be the concern of the tribunal. In the aforesaid circumstances, the claim of the workman is held bogus and highly belated and as such not tenable.

10. Consequently, demand of the Union for the promotion of Shri S. D. Pande from December, 1972 is not just and proper. Workman is not entitled for any relief. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली 28 जून 1996

का. आ. 2181.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 34) की धारा 17 के अनुसरण में केन्द्रीय सरकार शिवपुरी गुना क्षेत्रीय ग्रामीण बैंक के प्रबंधक के संबंध नियोजकों और उनके कर्मचारों के बीच अनबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जवाहर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-6-96 को प्राप्त हुआ था।

[संख्याएल-12012/254/90-आईआर (बी-3)/बी-1]

पी. जे. माइकल, डैस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2181.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Shivpuri Guna Kshetriya Gramin Bank, and their workmen, which was received by the Central Government on 27-6-1996.

[No. L-12012/254/90-IRB(3)B.(I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

Case No. CGIT|LC(R)(28)|1991

BETWEEN

Shri Ram Singh Rajak, represented through the General Secretary, Shivpuri-Guna Kshettriya Gramin Bank Workers Organisation, Kamla Ganj, A. B. Road, Shivpuri (MP)-473 551.

AND

The Chairman, Shivpuri-Guna Kshettriya Gramin Bank, Head Office, 136, Arya Samaj Road, Shivpuri (MP)-473551.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri K. V. Barahate, Advocate.

For Management : Shri R. Mehdidutta, Advocate.

INDUSTRY : Banking

INDUSTRY : Banking DISTRICT : Shivpuri (M.P.)

AWARD

Dated : April 16, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012/254/90-IR(B-3) dated 22-2-1991, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Chairman, Shivpuri-Guna Kshettriya Gramin Bank, Shivpuri in terminating the services of Shri Ram Singh Rajak after Oct. 1984 is justified or not? If not to what relief the worker is entitled to?”.

2. Admitted facts of the case are that the workman, Ram Singh Rajak, was appointed on daily wages basis as a Peon, Shivpuri Branch in June; that the management has not paid him retrenchment compensation and one month's notice of termination of service was not given to the workman.

3. Case of the workman is that he was appointed against clear and permanent vacancy as a Peon; that the workman has worked from June 1982 to October, 1984 for more than 240 days continuously; that the Bank has illegally terminated the services of the workman without paying the compensation or giving the statutory notice. The workman is entitled for reinstatement with full back wages.

4. The case of the management is that the workman was appointed on contract on daily wages that the appointment of the workman was neither against vacant post nor on permanent basis; that the services of the workman came to an end on every working day and it is not a retrenchment under Sec. 2(oo)(bb) of the I.D. Act. The management has alleged that the workman voluntarily left the job and he made representation for granting loan of Rs. 4000 for his business and as the workman was engaged in his business the job was left by the workman.

5. Terms of reference was made the issue in the case.

6. Workman examined himself and Nawal Kishore and the management has examined R. D. Pandit and V. B. Srivastava. Workman Ram Singh, has stated that he has continuously worked as a Peon from June 82 to October, 1984. Management witness R. D. Pandit, Officer of the Bank, has admitted in para 2 of his statement that Ram Singh has worked from June 1982 to July 1983 and August 1983 to October, 1984. Witnesses of the management R. D. Pandit and V. D. Srivastava has not denied that the workman, Ram Singh, has not continuously worked for more than 240 days in a calendar year. Consequently, it is proved that the workman, Ram Singh, has continuously worked for more than 240 days in a calendar year as peon.

7. The defence of management is that firstly the workman has voluntarily left the job and secondly that the services of the workman was on contract basis. The workman has raised the dispute of termination after five years of the alleged termination in 1984. No explanation is given why such a dispute was raised by the workman after inordinate delay of five years. Workman has admitted that he has taken the loan of Rs. 4000 from the Bank vide Ex. M/2. In Ex. M/2 the workman has admitted that he was doing the job of Washerman and he required the loan to purchase the dunky for doing the business. This agreement of loan was

executed by the workman on 7-2-1986. The contention of the management is that the workman was doing the business of washerman and he took the loan for that purpose and left the job voluntarily. The circumstance that the dispute was raised by the workman after inordinate delay and the second circumstances that he took the loan in 1986 for his business fortifies the contention of the management witness that the workman has left the job voluntarily. The workman has not made any complaint to the Union or made representation to the management in the year 1984 to 1989 complaining his illegal termination. Consequently, It is held that the workman has voluntarily left the job.

8. The workman has alleged that he was posted on daily wages against the permanent vacancy; while the witnesses of the management, R. D. Pandit & V. D. Srivastava, stated that the workman was engaged temporarily and there was no vacant post on permanent basis. It is not in dispute that the workman was appointed on daily wages. It is held by the Hon'ble High Court of M.P., in petition No. 4908/89 dated 27-7-94 that appointment on daily wages means that the contract of service comes to an end on every day. The workman has voluntarily left the job without the oral or written order of his termination by the management. Management witnesses, R. D. Pandit and V. D. Srivastava, have stated that the workman was free not to come to the Bank next day. Consequently, it is held that the workman was engaged on contract basis for day to day work. Termination of such a workman from service is not a retrenchment by virtue of Sec. 2(oo)(bb) of the I. D. Act. Management is not under obligation to pay the retrenchment compensation or give the statutory notice to the workman under S-25F of the I. D. Act.

9. The action of the management in terminating the services of Shri Ram Singh Rajak after Oct. 1984 is justified. Workman is not entitled for any relief, whatsoever. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का. आ. 2182— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार कलकत्ता, सी. एल. के प्रबन्धन के संबंध विरोधकों और उनके कर्मचारों के बीच अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, जबलपुर के संक्षेप को प्रकाशित करती है जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

6-9-1989, for adjudication of the following industrial dispute :—

SCHEDULE

[संख्या एल 22012/77/89-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2182.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on the 26-6-96.

[No. L-22012/77/89-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(169)/1989

BETWEEN :

Shri Wahid Khan represented through the Secretary, R.K.K.M.S. (INTUC), Post Chandametta, District Chhindwara (MP).

AND

The Chief General Manager, W.C.L., Pench Area, Post Parasia, District Chhindwara (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman.—Shri S. K. Rao, Advocate.

For Management.—Shri R. Menon, Advocate.

INDUSTRY : Coal Mines DISTRICT : Chhindwara (M.P.)

AWARD

Dated, April, 18th 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012/77/89-IR(C-II) Dated 1648 GI/96—7

“Whether the action of the Management of Chief General Manager, Western Coalfields Ltd., Pench Area, PO Parasia, Distt. Chhindwara in retiring Sri Wahid Khan S/o Ahmed Khan w.e.f. 1-7-88 and not taking into consideration his date of birth as 3-5-1936 as recorded in the School Transfer Certificate, is justified? If not, to what relief the concerned workman is entitled?”

2. Admitted facts of the case are that the workman Wahid Khan, was working as a Driver in the office of the Chief General Manager, Western Coalfields Ltd., Pench and that the workman was retired from the service with effect from 1-7-88.

3. The case of the workman is that his actual date of birth is 3-5-1936 as recorded in the School Transfer Certificate; that the workman made the representation dated 23-2-1982 for the correction of his date of birth as 3-5-1936 in place of 1-7-28 that the management illegally retired the workman with effect from 1-7-88. The workman prayed for his reinstatement with full back wages.

4. The case of the management is that as per NCWA II the dispute relating to the date of birth was referred to the Age Determination Committee in the year 1984 and it determined the age of the workman as 1-7-1928; that the workman failed to produce the School Transfer Certificate before the Committee; that the case of the workman for the correction of his age is highly belated and without any proof.

5. Terms of reference was made the issue in the case.

6. Workman has examined Munir Khan and the management has examined Nem Singh.

7. The report of the Age Determination Committee was communicated to the workman in the year 1984 and the workman has not challenged the report of the Age Determination Committee. The Implementation Instruction No. 37 lays down that the finding of the Age Determination Committee will be final. Consequently, the workman is bound by the Report dated 29-6-84 of the Age Determination Committee that his date of birth was 1-7-1928.

8. The workman joined the service in the year 1948 as General Mazdoor. Consequently, it will be unnatural to accept the date of birth of the workman as 3-5-1936 because the workman when joined the service would have been only 12 years of age. The workman has verified the entry in Form

B Register regarding his date of birth. Thumb impression was put by the workman as a token of correction of the entry. However, the workman is claiming the correction of his age on the basis of the School Transfer Certificate. The workman has not examined any witness to prove the School Leaving Certificate to show that the date of birth recorded in the School Transfer Certificate was filed by the workman at the fag end of his career and no explanation was given by the workman for his belated claim of correction of his age.

9. Consequently, management was justified in not taking into consideration his date of birth as 3-5-36 as recorded in the School Leaving Certificate and the action of the management in retiring Sri Wahid Khan w.e.f. 1-7-88 and not taking into consideration his date of birth as 3-5-36 as recorded in the School Transfer Certificate is held justified. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का. आ. 2183.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार एम.ई.सी.एल. के प्रबन्धकों के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[स.एल. 22012/488/91-आईआर (सी-II)]

राजा लाल, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 28th June, 1996

S.O. 2183.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workman, which was received by the Central Government on the 26-6-1996.

[No. L-22012/488/91-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LC(R)/(94)/1992

BETWEEN

S/Shri Shyampal Singh Yadav and others represented through the Secretary, S.K.M.S. (AITUC) Quarter No. B/72, Urja Nagar, Post Gevra Project, District Bilaspur (M.P.)

AND

The Sub-Area Manager, S.E.C. Ltd., Laxman Project, Post Kusumuda Project, District Bilaspur (M.P.)

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workmen—None

For Management—Shri A. K. Shasi, Advocate

INDUSTRY : Coal Mines DISTRICT : Bilaspur (M.P.)

AWARD

Dated the April 2nd, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/488/91-IR(C-II), dated 21-5-1992, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the management of Laxman Project of S.E.C. Ltd. Bilaspur, justified in not regularising S/Shri Shyampal Singh Yadav S/o Sri Meharban Singh, Md. Sajid S/o S. K. Yasin, Rajan Nagle S/o Sri G. Nagale and L. P. Vishwakarma in Cat. C. Dumper Operators as has been done to other trainees vide management's office order dated 25-6-90 ? If not, to what relief the workmen concerned are entitled to ?”

2. After the reference was made by the Ministry of Labour for adjudication of the dispute referred to above, the workmen or the Union has not taken any interest to pursue the case. More than ten dates were fixed for filing the statement of claim by the workmen/union but none of the dates anybody on behalf of the Union or workmen appeared or filed the statement of claim. Last date,

fixed was 20-3-96. On this date also none appeared on behalf of the workmen. Management prayed to close the case as the workmen are not appearing and filing the statement of claim. Prayer of the management is just and proper and as such no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2184.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उद्योग, सी.एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकणित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[सं. एल-22012/76/89-आई आर (सी-II)]

राजा लाल, डस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2184.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L., and their workman which was received by the Central Government on the 26-6-1996.

[No. L-22012/76/89-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LC(R)/(249)/1989

BETWEEN

Shri Makram represented through the Asstt.
Secretary, R.K.K.M.S. (INTUC), Post
Chandametta, District Chhindwara (MP)

AND

The Manager, E.D.C. Colliery, Post Parasia,
District Chhindwara (M.P.)-480441.

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman—Shri S. K. Rao, Advocate

For Management—Shri R. Menon, Advocate

INDUSTRY : Coal Mines DISTRICT : Chhindwara (M.P.)

AWARD

Dated, the 11th April, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/(76)/89-IR(Coal-II), dated 4-12-89, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the Manager, EDC Colliery, Pench Area of WCL, P.O. Parasia, Dist. Chhindwara (M.P.) in not correcting the date of birth of Sri Makram S/o Sri Teeka Ram, Timberman from 1-7-1929 to 2-10-41 by referring to Medical Board is justified? If not, to what relief the workman concerned is entitled?”

2. Admitted facts of the case are that Sri Makram was appointed on 2-1-71 as a Timberman Mistry. It is also not in dispute that the date of birth of the workman recorded in the service record is 1-7-1929.

3. The case of the workman is that his actual date of birth is 2-10-41; that the management has wrongly recorded in his service book that his date of birth is 1-7-1929. The workman has prayed that inspite of his repeated request, he was not referred to the Medical Board for confirmation of his age. That the management be directed to reinstate him and the consequential benefits be provided to the workman.

4. The case of the management is that the workman has made the thumb impression on Form D Register regarding the entry of his date of birth as 1-7-1929; that the Age Determination Committee has also decided that the date of birth of the applicant was 1-7-1929; that the workman did not raise any objection challenging the finding of the Age Determination Committee.

5. Terms of reference was made the issue in the case.

6. In Form B Register the date of birth of the workman is shown as 1-7-1929 and it bears the thumb impression of the workman as a token of the correctness of the entry regarding his date of birth, the workman has not led any oral or documentary evidence, whatsoever, to prove that his actual date of birth was 2-10-41. The workman has not given any explanation that how and why date of birth was recorded long back in Form B

Register as 1-7-1929 and in what circumstances the workman made the thumb impression as to the correctness of the entry.

7. The Hon'ble Supreme Court in case of Union of India Vs. Harnam Singh AIR 1985 SC 162 held that there should be strong evidence to show that the date of birth of the workman was wrongly recorded in the papers and the claim of correction of age after undue delay at the fag end of his career should not be normally allowed. The claim of the workman for the correction of his age is not tenable in the aforesaid circumstances. Consequently, the action of the management in not correcting the date of birth of the workman, Makram, is held justified. Workman is not entitled for any relief. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का. आ. 2185.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रबन्ध तंत्र के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्य एल-22012/247/92 आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2185.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the Industrial dispute between the employees in relation to the management of S.E.C.L. and their workman, which was received by the Central Government on the 26-6-96.

[No. L-22012/247/92-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LC(R) (239)/1992

BETWEEN

Shri Ram Charan Yadav, S/o Vishwadar
Yadav, Vill. & Post Nigwani, District
Shahdol (M.P.)

AND

Sub-Area Manager, Govinda Sub-Area of
S.E.C.L. Post Kotma District Shahdol
(M.P.)

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman : Himself

For Management—Shri Mukhyopadhyaya

INDUSTRY : Coal Mines DISTRICT : Shahdol
(M.P.)

AWARD

Dated, the May 6th, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/247/92-IR(C-II), dated 9-12-1992, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the Manager, Govinda Colliery of Jamuna and Kotma Areas of S.E.C. Ltd. in dismissing Shri Ram Charan Yadav, General Mazdoor from services w.c.f. 25-8-89 is legal and justified? If not, to what relief the workman is entitled to?”

2. Admitted facts of the case are that the workman, Ram Charan Yadav, was appointed as a General Mazdoor and the charge-sheet dated 11-6-89 was issued against the workman on the allegation of unauthorised absenteeism and also of habitual absenteeism; that the workman was dismissed from services w.e.f. 25-8-89.

3. Case of the workman is that the departmental enquiry was conducted in violation of the principles of natural justice; that the workman never remained absent without prior intimation or permission; that the punishment awarded to the workman is harsh. Workman has prayed for reinstatement.

4. Case of the management is that the workman is in the habit of remaining absent unauthorisedly and in the year 1987 he remained present only for 16 days and in the year 1988 only 51 days; that the workman has participated in the enquiry and he has voluntarily admitted the guilt.

5. Following are the issues in the case :

ISSUES

1. Whether the enquiry is just proper and legal?

2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Relief and costs ?

6. Issue No. 1 & 2.—These issues were answered in favour of the management vide order dated 19-2-1996.

7. Issue No. 3, 4 & 5.—From the proceedings dated 7-7-89, it is clear that the workman has admitted the charges the workman has also admitted the charges in writing and he has prayed for the mercy. Management has examined Shri V. K. Pande, Attendance Clerk, and he has stated that the workman remained present only 139 days in the year 1986, for 28 days in 1987 and 55 days in 1988 and 33 days in 1989. Workman has not cross-examined Shri V. K. Pande and on the other hand he has stated that the statement of Shri V. K. Pande were correct. Consequently, it is fully proved that the workman not only remained unauthorisedly absent for long period, but he is also a chronic absentee. The dismissal of the workman is held just and proper. Award is given accordingly in favour of the right. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2186.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.सी.एल. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012(60)/95-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2186.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of N.C.L. and their workman, which was received by the Central Government on the 26-6-1996.

[No. L-22012(60)/95-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LC(R)(8)/1995

BETWEEN

Shri Lakhan Lal Sahu represented through the Secretary Rashtriya Koyla Mazdoor Sangh (INTUC), Post Jhingurda Colliery Distt. Sidhi (M.P.)

AND

The General Manager, Jhingurda Project of N.C.L. Post Jhingurda Colliery, District Sidhi (M.P.)

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman—None

For Management—Shri A. K. Shasi, Advocate

INDUSTRY : Coal Mines DISTRICT : Sidhi (M.P.)

AWARD

Dated, the May 1st, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012(60)/95-IR(C-II), dated 7-12-1995, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the General Manager, Jhingurda Project of N.C. Ltd. Singrauli in deducting a sum of Rs. 1200 per month by way of penal rent from the wages of Sh. Lakhan Lal Sahu Sr. Dumper Operator, Mining Department in legal and justified ? To what relief the workman is entitled ?”

2. Workman has not filed the statement of claim nor the workman has appeared on any hearing in spite of the repeated notices. It is clear that the workman is not interested in pursuing the dispute and as such as prayed by the management no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 2 जून, 1996

AWARD

Dated, the April 18th, 1996

का.अ. 2187.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इद्यू सी एल के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/424/91-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2187.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen which was received by the Central Government on the 26-6-1996.

[No. L-22012/424/91-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LC(R)/(44)/1992

BETWEEN

Shri Najroo and either others represented
through the Organising Secretary,
R.K.K.M.S. (INTUC) P.O. Chanda-
metta, District Chhindwara (M.P.)

AND

The Manager, Nandan Mine No. 1, W.C.L.
P.O. Nandan, District Chhindwara
(M.P.)

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman—Shri S. K. Rao, Advocate

For Management—Shri B. B. Mishra

INDUSTRY : Coal Mines DISTRICT : Chhind-
wara (M.P.)

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/424/91-IR(C-II), dated 24-2-1992, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the General Manager, Kanhan Area of WCL and Supdt. (Miner) of Nandan Mine No. 1 of Western Coalfields Ltd., Kanhan Area, P.O. Nandan, Distt. Chhindwara (M.P.) is justified in dismissing from services to Shri Najroo S/o Guddu Trammer, and other eight workmen of Nandan Mine No. 1, WCL, Kanhan Area, P.O. Nandan Distt. Chhindwara (M.P.) from the dates shown against the name of each workman as per details shown in the enclosed Annexure ? If not, to what relief the concerned workmen are entitled to ?”

ANNEXURE

Sl. No.	Token No.	Name of the workman	Designation	Date of dismissal from service
1.	379	Najroo S/o Guddu	Trammer	19-12-88
2.	2070	Madhu S/o Sakarlal	-do-	17-08-88
3.	144	Bhayyalal S/o Darbari	Dresser	17-8-88
4.	2133	Mehtab S/o Kalam Chand	Gen. Mazdoor	22-11-88
5.	1743	Harishankar S/o Shriram	Loader	22-11-88
6.	0268	Krishna S/o Kartik	D.P.R.	22-11-88
7.	1745	Roshan S/o Shivji	Trammer	22-11-88
8.	1783	Laxman S/o Santram	Loader	22-11-88
9.	1913	Manjoo S/o Ujjan	Gen. Maed.	20-12-88

2. Reference was received on 11-3-92 and on the several hearings Counsel of the workmen and the management appeared. Workman has not filed the statement of claim inspite of more than ten adjournments. Statement of claim was filed by the management and the management prayed to close the case Counsel for the workmen instead of filing the statement of claim, declared that the workman has not contacted him. Consequently, it is clear that the workman is not interested in pursuing the matter. No dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली 28 जून, 1996

का.आ. 2188 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उद्योग्य सी.एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/260/आईआर (सी II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2188.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on 26-6-96.

[No. L-22012/260/89-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(54)/90

BETWEEN

Shri Atmaram Keshav Patil represented through the All India Democratic Trade Union, Babupeth, Ward No. 5, Post Babupeth, District Chandrapur (MS).

AND

The Sub-Area Manager, Hindustan Lalpeth Colliery, W.C.L. Chandrapur (MS).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman.—Shri R. C. Srivastava, Advocate.

For Management.—S/Shri B. N. Prasad & G. S. Kapoor, Advocate.

INDUSTRY : Coal Mines.
DISTRICT : Chandrapur (MS).

AWARD

Dated. April 3rd, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012(260)/89-IR(C-II) Dated 8th February, 1990, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the Management of sub-Area Manager, Hindustan Lalpeth Colliery of M/s. WCL in demoting Sri Atmaram Keshav Patil from Welder Cat. V to General Mazdoor Cat. I from 25-5-83 and transfer to Ballarpur Colliery is justified? If not to what relief the workman concerned is entitled?”

2. Admitted facts of the case are that the workman, Atmaram Keshav Patil, was issued with the charge sheet dated 7-10-85 on the allegation that the workman absented from the place of work, abused the fellow workman and committed indiscipline resulting the loss to the management. It is also admitted that the Enquiry Officer held he charges proved against the workman and the Disciplinary Authority demoted the workman from Welder Cat. V to General Mazdoor Cat. I and transferred him to Ballarpur Colliery.

3. Case of the workman is that the Enquiry Officer has not provided him the reasonable opportunity to defend the case and the finding of the enquiry officer is perverse.

4. Case of the management is that on 7-10-85 workman, Sri Patil, came in the Workshop leading group of workmen and inspite of repeated warning, the workman entered into the mine and stop working of the mine; that the workman, Sri Patil, had abused the Under Manager and restrained workmen to continue the working in the mine. Management has further alleged that the workman habitually disobeys the orders of the superiors. Management has further alleged that the punishment of transfer and the demotion is not an individual dispute and it is not established by the Union and as such reference is not tenable.

5. Following are the issues in the case :—

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal?
- 1(a). Whether it is an industrial dispute? Effect?
2. Whether the punishment awarded is proper and legal?

3. Whether the management is entitled to lead evidence before this Tribunal ?
4. Whether the action taken against the workman is justified on the facts of the case ?

5. Relief and costs ?

6. Issue No. 1 & 3. Workman participated in the departmental enquiry and the departmental enquiry was held fair, proper and legal vide order dated 16-5-1995.

7. Issue No. 1(a). Workman has not filed any document to show that he was a member of All India Democratic Trade Union. There is nothing on record to show that the case of the workman was espoused by the recognised Union. The dispute is an individual dispute and there is no evidence that case of the workman was espoused by the registered union. It is held that the Tribunal has no jurisdiction to entertain the dispute under reference. Issue No. 1(a) is answered in affirmative.

8. Issue No. 2, 4 & 5. Management has examined Shri Babban Singh as M.W.1 and he has stated that while he was working as Under Manager workman, A. K. Patil, unauthorisedly entered into the mine on 7-10-85 at about 8 a.m. and stopped working of the mine which was in progress. Babban Singh (MW 1) has further stated that the workman made stoppage of mine work for more than two hours and he disobeyed the directions of the officers not to create the trouble in the mine. The other witnesses of the management, Atulkar Security Inspector and Soni have also corroborated the statement of Babban Singh. Workman, Shri Patil, has examined himself and produced defence witnesses, Emla Pocham, Khandare, Tadse and Choudhary, these witnesses were involved in unauthorisedly stopping the work in the mine and disobeying the orders of the superiors. Consequently, the statement of the management witnesses who had no bias against the workman were rightly held reliable than the witnesses of the workman produced in his defence. Charges are fully proved. Punishment awarded to the workman deserves no interference.

9. Consequently, it is held that the action of the management in demoting the workman and transferring him is just and proper. Reference is answered in favour of the management. Workman is not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996.

का.आ. 2189.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबन्धन के

संबंध विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/239/92-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2189.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on 26-6-96.

[No. L-22012/239/92-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(240)/1992

BETWEEN

Shri Shamsheer Khan, Near Masjid, Sujalpur Mandi, Sujalpur, District Shahajapur (MP).

AND

District Manager, Food Corporation of India, 64, University Road, Ujjain (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman.—Shri R. Menon, Advocate.

For Management.—Shri S. Pal, Advocate.

INDUSTRY :

FCI.

DISTRICT :

Ujjain (MP).

AWARD

Dated, April 2nd, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012/239/F/92-IR(C-II) dated 9-12-1992, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Food Corporation of India, Ujjain, in terminating the services of Shamsheer

Khan is legal and justified ? If not, to what relief the concerned workman is entitled to ?”

2. The admitted facts of the case are that the workman, Shri Shamsheer Khan, was working as Watchman in the office of the District Manager, Food Corporation of India Ujjain and he was appointed as a Watchman on 7-4-1978. It is also not in dispute that on account of the incident took place on 30-6-82 in Nimheda Railway Station, the workman, Shri Shamsheer Khan, was convicted by the Railway Magistrate, First Class, Ajmer for an offence under Sec. 379 I.P.C.; that the appeal was preferred by the workman to the Court of Session Judge, Ajmer and the Session Judge vide his judgment dated 5-3-1991 released the workman under Sec. 3 of Probation of Offenders Act. It is also admitted that the District Manager, F.C.I. Ujjain compulsorily retired the workman by virtue of Regulation 63 of the Food Corporation of India (Staff) Regulation 1971; that the appeal and review petition was preferred by the applicant and they were rejected by the Appellate Authority.

3. The case of the workman is that the order of conviction passed against the workman was quashed by the Session Judge and as such the impugned order of compulsory retirement dated 21-8-90 is liable to be set aside; that the Disciplinary Authority has not considered the facts and circumstances of the case; that the Disciplinary Authority had no power to punish the workman under Reg. 63 during the pendency of the criminal appeal. The workman has prayed reinstatement with full back wages.

4. The case of the management is that the workman snatched the golden chain from the neck of Smt. Premalata and he was caught red handed and the Judicial Magistrate, First Class, Ajmer, found him guilty under Sec. 379 of I.P.C. and he was punished with six months imprisonment along with the fine of Rs. 500; that the competent authority acted under Reg. 63 of F.C.I. (Staff) Regulation, 1971 and the reply submitted by the workman after the show cause notice was taken into consideration; that the Disciplinary Authority has passed the speaking order to impose the penalty of compulsory retirement; which was called for in view of the conviction of the workman in a serious offence of commission of theft from the neck of a lady.

5. Terms of reference was made the issue in the case.

6. It is clear from the judgment dated 5-3-91 of the Session Judge, Ajmer that in appeal filed by the workman against his conviction under Sec.

379 IPC and punishment of six months imprisonment and fine of Rs. 500, the appeal was allowed only with regard to the sentence and the conviction of the workman under Sec. 379 IPC was upheld. The learned Session Judge has held that the workman be released after admonition under Sec. 3 of the Probation of Offenders Act.

7. Consequently, contention of the learned Counsel for the management that the conviction of the workman under Sec. 379 was maintained and the sentence is changed by the Session Judge, Ajmer, is just and proper. The release of the workman under Sec. 3 of the Probation of offenders Act after warning or admonition is a stigma against him and in view of the case Union of India Vs. Tulsiram Patel [1985(3) SCC p. 398] the workman can be departmentally punished.

8. It is held in case of Union of India & Others Vs. Bakshi Ram [(1990) 2 SCC 426] that Sec. 12 of Probation of Offenders Act does not preclude the department from taking action for misconduct against the workman leading to the offence or to his conviction thereon as per law. It is clearly laid down therein that Sec. 12 was not intended to exonerate the workman from the departmental punishment. Consequently, the action of the management starting the proceedings under Reg. 63 of the FCI (Staff) Regulation cannot be assailed on the ground that the workman is entitled for the benefit of Sec. 12 of the Probation of Offenders act because of the fact that the workman was accorded the benefit of Sec. 3 of the Probation of Offenders Act by the Session Court.

9. From the perusal of the judgment dated 5-3-91 of Session Judge, Ajmer, it is clear that the workman was guilty of snatching the golden chain weighed 2 tolas from the neck of passenger. Smt. Premalata and when Smt. Premalata cried about the theft of the golden chain, the workman made an attempt to run away and he was caught red handed on the platform and the stolen golden chain was recovered from the pocket of his shirt. The offence of theft under Sec. 379 IPC is of serious nature. Theft was not trivial or technical. The workman was working as a Watchman and he was convicted for serious offence of theft consequently on account of his conviction disciplinary Authority was justified in compulsorily retiring the workman. It is observed in case of Divisional Personnel Officer, Southern Railway Vs. T. R. Chellappan AIR 1975 Supreme Court 2216 that even after the conviction on criminal charges the Disciplinary Authority should apply the mind to the facts and circumstances of the case before imposing the penalty on the workman. Notice dated 4-6-90 was given by the District Manager/Disciplinary Authority to the workman stating that

the management has proposed to take the disciplinary action against the workman under Reg. 63 of FCI (Staff) Regulation 1971 on account of his conviction under Sec. 379 IPC. District Manager vide order dated 21st August, 1990 has taken into account the reply filed by the workman and the facts and circumstances of the case before imposing the impugned penalty. Consequently, it is clear that looking to the gravity of the offence and the fact that the Disciplinary Authority has provided an opportunity to the workman to represent his case before taking the final action against the workman the Management has rightly exercised the power to punish the workman under Reg. 63 of the F.C.I. and it was fair, just and reasonable.

10. The action of the management in terminating the services of the workman is held justified. Workman is not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2190.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्क्यू एस. सी. एल. के प्रबन्धन के संबंध में नियोक्ता और उनके कर्मचारों के बीच, अनुबन्ध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संज्ञा एल. 22012/292/94-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2190.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on the 26-6-96.

[No. L-22012/292/94-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP).

CASE REF. NO. CGIT/LC(R) (202)/1994.

BETWEEN

Smt. Bhulia Bai represented through the Organising Secretary, Koyla Khadan Mazdoor Sangh, Post Chandamata, District Chhindwara (MP).

AND

The Dy. Chief Mining Engineer, Sethia Open Cast Mine of W.C.L. Chinda Group of Pench Area, Post Dipawani, District Chhindwara (MP).
PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman : None.

For Management : Shri A.K. Shasi, Advocate.

INDUSTRY : Coal Mines DISTRICT : Chhindwara (M.P.)

AWARD

Dated : April 30, 1996

This is reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012/292/94-IR(C-II) dated 14-11-1994, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the Dy. C.M.E. Sethia Open Cast Mine of Chhinda Group of WCL Pench Area, P.O. Dighawani Distt. Chhindwara is not regularising Smt. Bhulia Bai, General Mazdoor, Sethia Open Cast Mine Dispensary as a Dispensary Aya is justified? If not to what relief the workman is entitled to?"

2. Reference was received on 23-11-94 and since then ten opportunities were granted to the workman to file the statement of claim, but the statement of claim was not filed by the workman. Workman appeared on some hearings and the last date for filing of statement of claim was given to him. Ultimately on 30-4-96 management has prayed to close the case as none is appearing for the workman and the statement of claim has not been filed by the workman. Consequently it is clear that the workman is not interested in pursuing the

matter and as such I have no option but to pass no dispute award. No dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2191.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उद्योग, सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/90/85-डी V (डी-III) (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2191.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W. C. L. and their workmen, which was received by the Central Government on the 26-6-96.

[No. L-22012/90/85-D. V/D-III(B)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(146)/1987

BETWEEN :

Shri R. Sasidhara Kaimal, Ex-Mechanist, Inder Colliery, R/o. Kamalakur Kunj Nivas, Post Kanhan Pipri, Tq. Ramtek, District Nagpur (MS).

AND

The Sub-Area Manager, Inder Colliery of (W.C.L.) P.O. Kamptee, District Nagpur (MS).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri J. L. Bhoot, Advocate.

For Management : Shri Rajendra Menon, Advocate.

INDUSTRY : Coal Mines. DISTRICT : Nagpur (MS)

AWARD

Dated : April 16, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012/90/85-D.V/D.III(B) dated 8-7-1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Inder Colliery of Western Coalfields Limited, Nagpur is dismissing Shri R. Sasidhara Kaimal from services w.o.f. 24-7-1985 as justified? If not, to what relief is the workman entitled?"

2. Admitted facts of the case are that the workman, R. Sasidhara Kaimal, was working as Badli Mazdoor and he was charge-sheet for threatening and assaulting the Executive engineer and after the departmental enquiry the services of the workman were terminated with effect from 24-7-85.

3. The case of the workman is that the charge-sheet was issued against the workman on false and fabricated ground of assaulting and threatening the Executive engineer; that the Enquiry Officer has not provided opportunity to cross-examine the witness and it was conducted in undue haste. that there is no evidence against the workman and the finding of the Enquiry Officer is perverse and punishment is disproportionately high. The workman has prayed for reinstatement.

4. The case of the management is that the workman has assaulted and threatened Sri Nima, Executive Engineer, while on 14-1-84 at about 9.30 a.m. was on round and made certain enquiries from the workman. The management alleged that the workman has fully participated in the enquiry and there was no breach of natural justice; that the misconduct was proved and the dismissal is in accordance with the gravity of the misconduct.

5. Following are the issues in the case :—

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal?
2. Whether the punishment awarded is proper and legal?
3. Whether the management is entitled to lead evidence before this Tribunal?
4. Whether the termination/action taken against the workman is justified on the facts of the case?
5. Relief and costs.

6. Issues No. 1 & 3 : Domestic enquiry was held just, proper and legal and issues No. 1 & 3 were answered in favour of the management vide order dated 21-9-95.

7. Issues No. 2, 4 & 5 : Shri K. K. Nema, Complainant, has stated that on 14-1-84 at about 9.30 a.m. while he was in Workshop workman abused him and later on he was assaulted. Management has examined B. G. Bahoria, M.D. Shukla and C.S. Mishra who has corroborated the allegation made by the complainant against the workman. Finding of the Enquiry Officer is in accordance with the facts on record and they are proper. The dismissal of the workman from service was the proper punishment. Consequently, the action of the management in dismissing Shri R. Sasidhara Kaimal from service w.e.f. 24-7-85 is held just and proper. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AVASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2192.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबन्धतन्त्र के संबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/102/94-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2192.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workmen, which was received by the Central Government on the 26-6-96.

[No. L-22012/102/94-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(123)/1994.

BETWEEN :

Shri Manohar and others C/o Shri Ahmed Hussain, Clerk, At and Post B Seam Colliery, Distt. Surguja (MP).

AND

The Sub Area Manager, Jhagrakhand Sub Area of S.E.C.L., P. O. W. West, Jhagrakhand Colliery, Distt. Surguja (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri R. C. Srivastava, Advocate.

For Management : Shri L. B. Singh.

INDUSTRY : Coal Mines. DISTRICT : Surguja (M.P.)

AWARD

Dated : May 1, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/102/94-IR(C-II) dated 2-8-1994 for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the Sub Area Manager, Jhagrakhand Sub Area of SECL in dismissing Sri Manohar S/o Bechan, P. R. Loader, B Seam Colliery from Company services w.e.f. 26-6-1993 is legal and justified ? If not what relief the workman is entitled to ?”

2. Case of the workman is that the workman was employed as a Loader and the charge-sheet was served against him on the imputation of unauthorised absenteeism and the workman was dismissed from the service w.e.f. 26-6-1993.

3. Written statement was filed by the management and the issues were framed. However, the management has filed the settlement. The settlement bears the signature of the workman and the Union representative and the officers of the management. Management has prayed to pass the award in terms of Settlement. The settlement is fair and proper. Following are the terms of settlement Award is passed in terms of settlement without any order as to costs.

TERMS OF SETTLEMENT

1. Agreed that Sri Manohar S/o Bechan, Ex loader, B. Seam Colliery will be reinstated on the job held prior to his dismissal from services i.e. P. R. Loader under NCWA-IV with immediate effect.
2. Agreed that no back wages and consequential benefits will be paid to Sri Manohar for the period between the date of his dismissal to the date of his actual joining duty on reinstatement at the place of posting on the principle of ‘NO WORK NO PAY’. But he will be treated in continuity of services for the purpose of payment of Gratuity only.

3. Agreed that prior to joining duty on re-instatement Sri Manohar will be referred for medical examination to ascertain his fitness.
4. Agreed that the dispute is fully and finally resolved on account of the above settlement and the Union Workman further agreed that issue settled herein will not be raised at any forum before any authority.
5. Agreed that no any cost will be paid to the union/workman towards the case filed/referred to CGIT, Jabalpur and any other case/claim pending in different Court/Authority, if any.
6. Agreed that Sri Manohar S/o Bechan will produce Attested Photograph to the Competent authority at the time of joining duty, for proper identification.
7. Agreed that Sri Manohar S/o Bechan and concerned union representative will withdraw the case No. CGIT/LC(R)123/94 and settlement also be filed before the Hon'ble Presiding Officer, CGIT, Jabalpur for passing consent award on the lines of Settlement.
8. Agreed that the copy of the Settlement will be sent to appropriate authority for registration.

The above settlement is binding both the management and the workman/Union fully.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2193.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रवन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुवन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/425/91-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2193.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W. C. L. and their workmen, which was received by the Central Government on the 26-6-96.

[No. L-22012/425/91-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

CASE REF. NO. CGIT/LC(R)(8)/1992

BETWEEN :

Shri Chandan Singh and nine others represented through the Organising Secretary, R.K.K.M.S. (INTUC), P.O. Chandametta, District Chhindwara (M.P.).

AND

The General Manager, Western Coalfields Ltd. Kanhan Area, P.O. Dungaria, District Chhindwara (M.P.).

PRESIDED BY :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen : Shri S. K. Rao, Advocate.

For Management : Shri B. B. Mishra.

INDUSTRY : Coal Mines DISTRICT : Chhindwara (MP).

AWARD

Dated : April 18, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/425/91-IR(C-II) dated 28-1-92, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the General Manager WCL Kanhan Area and Supdt. (Mines) Manager of Nandan Mine No. 1 of WCL, Kanhan Area P.O. Nandan Dist. Chhindwara (MP) is justified in dismissing from services to Shri Chandan Singh S/o. Devidin D.P.R. and other nine workmen (as per list annexed) of Nandan Coal Mine No. 1, P.O. Nandan, Distt. Chhindwara (MP) from the dates shown against the name of each workman ? If not, to what relief the concerned workmen are entitled to ?"

List of Workmen

Sl. No.	Token No.	Name of the worker	Designation & Colliery: I.E. Nandan Colliery	Date of dismissal from service
1	2	3	4	5
1.	0150	Chandan Singh S/o Devidin	D.P.	12-6-89
2.	1959	Munna Lal S/o Hudey	Tubcolader	12-6-89
3.	0177	Kanahiyalal S/o Shankar	D.P.	12-6-89
4.	1568	Adhar Singh S/o Babla	-do-	6-8-89
5.	1602	Doodnath S/o Puranmasi	-do-	26-2-90
6.	0515	Najroo S/o Samejee	-do-	18-8-80
7.	02264	Sukhlal S/o Jhadoo	Gen. Man.	4-9-90

1	2	3	4	5
8.	0539	Hari Prasad S/o Gendal	D.P.R.	16-9-90
9.	0521	Jagan S/o Somlal	-do-	11-11-90
10.	0558	Shankar S/o Bhadoo	Loader	16-9-90

AND

The Dy. Chief Mining Engineer Burhar Group of Mines of SECL, P. O. Dhanpuri, District Shahdol (MP).

Presided in : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workman : Shri S. K. Rao, Advocate.

For Management : Shri R. Menon, Advocate.

INDUSTRY : Coal Mines. DISTRICT : Shahdol (M.P.).

AWARD

Dated : April 18, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-21012/6/87-D.III(B) Dated 22nd July, 1987, for adjudication of the following industrial Dispute :—

SCHEDULE

"Whether the dismissal from services of Shri Salim, Trammer, Burhar Number 1 Mines, vide letter No. WCL/A-1/85/B-3/1165, dated 15-7-85 by the Agent, Burhar Number 1 Mines, P. O. Dhanpuri, Distt. Shahdol, is justified ? If not, to what relief the workman is entitled for ?"

2. Admitted facts of the case are that the workman, Shri Salim, was working as a Trammer in Burhar No. 1 Mine of S.E.C. Ltd. and he was served with the charge-sheet dated 29-11-84 on the allegation that on 29-11-84 he had assaulted Shri V. K. Sud, Colliery Manager and also threatened to murder him. Shri Y. K. Singh was appointed as the Enquiry Officer and the charges were held proved and the workman was dismissed vide order dated 15-7-85.

3. The case of the workman is that false and baseless charges were levelled against the workman and he was implicated with malafide intention that the Enquiry Officer has not provided the workman the reasonable opportunity to defend the case, that the punishment imposed on the workman is harsh and excessive. The workman has prayed for his reinstatement with full back wages.

4. The case of the management is that on 29-11-84 the workman has assaulted Shri V. K. Sud, Colliery Manager and Shri Charan, Security Guard and Shri P. Pande, Head Security Guard, were the eye witnesses of the incident; that the workman has cross-examined the complainant and the eye witnesses in the domestic enquiry and the Enquiry Officer has provided full opportunity to the workman to defend the case ; that the workman stated during the enquiry that he does not want to examine any witness in his defence and he voluntarily abstained from the further proceeding of the domestic enquiry; that the charges were fully proved against the workman and the punishment is in accordance with the proved misconduct.

2. Reference was received on 5-2-92 and on the several hearings Counsel of the workmen and the management appeared. Workman has not filed the statement of claim inspite of more than ten adjournments. Statement of claim was filed by the management and the management prayed to close the case. Counsel for the workmen instead of filing the statement of claim declared that the workmen have not contacted him. Consequently, it is clear that the workmen are not interested in pursuing the dispute. No dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2194.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार उद्योग मी. एल. के प्रवर्तन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जदलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार का 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/6/87-डी-III (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2194.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on 26-6-96.

[No. L-22012/6/87-D.-III(B)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R) (134)/1987

BETWEEN

Shri Salim, represented through the Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), Sohagpur Area, P. O. Dhanpuri, Distt. Shahdol (MP).

9-6-1992, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the Manager, Damua Colliery of WCL, P.O. : Damua, District Chhindwara, in dismissing from services to Shri Suresh Yadav S/o. Shri Ramaswaroop General Mazdoor of Damua Colliery, P. O. Damua, District Chhindwara (M.P.) w.e.f. 7-3-1984 is justified? If not, to what relief the workman is entitled to?”

2. Admitted facts of the case are that the workman, Shri Suresh Yadav, was working as a Welder and that the charge-sheet dated 25-2-1983 was issued against the workman alleging that he was caught red handed committing the theft of 15 Kg. Brass which was the property of the management. It is also the common ground that the workman was sentenced to undergo R. I. for three years and also to pay fine of Rs. 500/- for the theft of alleged 15 Kg. Brass; that the appeal was filed by the workman against the conviction under Section 379 IPS by the Magistrate and the Session Judge, Chhindwara had set aside the conviction and the sentence. It is also the common ground that the Enquiry Officer held the workman guilty of the misconduct and the workman was dismissed from service with effect from 7-3-1984.

3. The case of the workman is that the false case of theft was cooked up against the workman; that there is no evidence against the workman to prove the charge of theft; that the Enquiry Officer has not provided him the reasonable opportunity to defend his case; that the Session Court has acquitted the workman; that the workman is entitled for reinstatement with full back wages.

4. The case of the management is that on 19-2-83 when the workman Suresh Yadav, was on duty in the colliery workshop the workman was caught red handed while committing the theft of 15 Kg. Brass in his tool box; that detailed domestic enquiry was held against the workman in accordance with the natural justice; that the workman was acquitted on account of benefit of doubt by the Session Court. Charges were fully proved against the workman and his dismissal is in accordance with the gross misconduct.

5. Following are the issues framed in the case :—
ISSUES

1. Whether the enquiry is just, proper and legal?
2. Whether the management is entitled to lead evidence before this Tribunal?
3. Whether the charges of misconduct are proved on the facts of the case?
4. Whether the punishment awarded is proper and legal?
5. Relief and costs?

6. Issue No. 1 & 2 :—Domestic enquiry was held just and proper vide order dated 18-7-1995 and Issue No. 1 & 2 were answered in favour of the management.

7. Issue No. 3, 4 & 5 :—Harmandar Singh (M. W. 1) has stated that on 19-2-1983 Security guard reported the incident and Suresh Yadav was caught red handed while stealing 15 Kg. Brass. Diibahadur (M. W. 3), who is the Security Guard in the Colliery Workshop has also corroborated the allegation of theft by the workman. The workman has admitted that he was carrying the 15 Kg. Brass which was the property of the management but he has not given the sufficient explanation of its unauthorised possession.

8. From para 15 of the judgment dated 16th April, 1987 of the Session Judge, it is clear that the prosecution against the workman has failed on account of the defective recording of the evidence by the prosecution. The acquittal of the workman was on account of non appearance of the Police Prosecutor and also due to the technical defects in recording the evidence. The acquittal being not honourable, it is of no avail for the workman. The finding of the Enquiry Officer of holding the workman guilty of the misconduct of theft and dishonesty in connection with the management property is fully established and the dismissal is in consonance with the proved misconduct.

9. The action of the management in dismissing the workman, Suresh Yadav, w.e.f. 7-3-1984 is held justified. Reference is answered in favour of the management.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 4 जुलाई, 1996

का.आ. 2196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबन्धकों के संगठन नियोजकों और उनके कार्यालयों के बीच, अतुल्य में सिद्धि औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, जबरन के पक्ष को प्रकाशित करती है जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/191/93-सी-11]

राजा लाल, डेस्क अधिकारी

New Delhi, the 4th July, 1996

S.O. 2196.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workman, which was received by the Central Government on 26-6-1996.

[No. L-22012/191/93-C. II]

RAJA LAL, Desk Officer.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (M.P.).

CASE REF. NO. CGIT/LC(R)(215)/1993.

BETWEEN :

Shri Baba Nanaji Zade, R/o. Berujwada, P.O. Malegaon, Teh. Saoner, District Nagpur, (M.S.)-423203.

AND

The Project Manager, Saoner Project of W.C. Ltd. Saoner, District Nagpur (M.S.)-40001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : None.

For Management : Shri A.K. Shasi, Advocate.

INDUSTRY : Coal Mine DISTRICT : Nagpur, (M.S.)

AWARD

Dated : April 19, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/191/93-C. II, dated 4-10-1993, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Saoner sub-Area of W.C.L. in dismissing the service of Shri Baba Nanaji General Mazdoor, Cat. I, w.e.f. 25-2-1992 is legal and justified? If not, to what relief the workman is entitled?”

2. Admitted facts of the case are that the workman, Baba Nanaji Zade, was appointed as a General Mazdoor and the workman was served with a charge-sheet dated 17-10-1992 alleging that the workman was continuously absent without permission and that the applicant workman was dismissed from the service vide order dated 25-2-1992.

3. The case of the workman is that the workman fell ill and the workman was treated in the hospital of W.C.L. at Saoner; that the Enquiry Officer did not inform the workman about the date of hearing and without providing an opportunity to defend the case, the disciplinary authority has dismissed him from service; that the Disciplinary Authority has also not served the notice before passing the impugned dismissal order dated 25-2-1992.

4. The case of the management is that the workman absented without any information or the sanction w.e.f. 27-7-1992, that the Enquiry Officer

issued the notice of date of hearing and the notice was refused and returned by the workman; that the Enquiry Officer has provided full opportunity to the workman to participate in the enquiry, that the finding of the Enquiry Officer is based on the evidence on record and his dismissal commensurate with the gross misconduct.

5. Following are the issues in the case :—

ISSUES

1. Whether the enquiry is proper and legal?
2. Whether the management is entitled to lead evidence before this tribunal?
3. Whether the charges of misconduct are proved on the facts of the case?
4. Whether the punishment awarded is proper and legal?
5. Relief and costs?

6. Issue No. 1 & 2 :—The Enquiry Officer has sent the notice of the date of hearing to the workman and the workman has refused to receive the notice. However, it is clear from the proceedings that the workman has appeared on 19-1-1992 and requested for adjournment and thereafter the workman absented from the enquiry. Consequently, the Enquiry Officer has rightly proceeded ex-parte against the workman. There is no breach of principles of natural justice during the domestic enquiry. Domestic enquiry is held just, proper and legal. Issues No. 1 & 2 are answered in favour of the management.

7. Issue No. 3, 4 & 5 :—From the evidence produced before the enquiry Officer, it is clear that the workman remained absent from the duty from 27-7-1992 for more than ten days. There is no evidence on record to show that the workman was absent on account of his illness. Absenteeism without prior intimation or sanction is gross misconduct and it certainly disrupts the working in the mine. The finding of the Enquiry Officer and order of dismissal are just and proper. The reference order shows the dismissal date of the workman as 25-2-1992 whereas the workman was actually dismissed from 25-2-1993. Therefore it appears that there is typographical error in the year (92) which should have been 93.

8. The action of the management in dismissing the workman w.e.f. 25-2-1993 is held legal and justified. Reference is answered in favour of the management. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer.

नई दिल्ली, 1 जून, 1996

का. आ. 2197.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में केन्द्रीय सरकार प्लत आई सी आफ रीजिस्ट्रार के प्रबंधन के संबंध में जकों और उनके कर्मचारों के बीच, अनुबंध में विनिर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण

कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-96 को प्राप्त हुआ था।

[संख्या एन-17012/22/91-आईआर (बी-11)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 4th June, 1995

S.O. 2197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of L.I.C. of India and their workmen, which was received by the Central Government on 3-6-96.

[No. L-17012/22/91-IR(B-11)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 116 of 1991

In the matter of dispute between :

Mukesh Kumar Tripathi,
son of Daya Ram Tripathi,
96/6, Chhuni Ganj Kanpur.
AND
Senior Divisional Manager,
Life Insurance Corporation of India,
Mall Road, Kanpur.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-17012/22/96-IRB-2 dt. 23rd August, '91 has referred the following dispute for adjudication to this Tribunal :-

"Whether the action of the Senior Divisional Manager L.I.C. of India, Kanpur in discharging Sri Mukesh Kumar Tripathi from service w.e.f. 14-7-88 is legal and justified? If not, to what relief the concerned workman is entitled?"

2. The concerned workman Mukesh Kumar Tripathi, in his claim statement has alleged that on 16-7-87, he was appointed as a Apprentice Development Officer for a period of one year by the opposite party Life Insurance Corporation of India. After completion of one year he was appointed as Development Officer on probation. He continued to work upto 25-7-88, thereafter, he fell ill and proceeded on leave. The opposite party issued an antedated discharge order purporting to be 14-7-88. The register cover would go to show that it was actually sent by registered post on 28-9-88 and was received by him on 3-10-88. In this way the discharge order having been antedated is illegal. Further as he had crossed the period of apprenticeship and was appointed as probationary officer. Because of all this the termination/discharge order is bad in law.

3. The opposite party has filed written statement in which the fact that the concerned workman was initially appointed as an apprentice development officer has not been disputed. It is alleged that there was no antedating in passing discharge order. Before expiry of apprenticeship, the management was within their right to pass discharge order. Hence, there was no illegality. It is denied that after expiry of period of apprenticeship the concerned workman was appointed on probation. In the end it is also disputed that the workman is a workman as envisaged in section 2(s) of I.D. Act.

4. In the rejoinder nothing new has been said.

5. In support of his case, the concerned workman has examined himself as Mukesh Kumar Tripathi as W.W.1. Further he has filed W.1 to W.20. In rebuttal the opposite party has adduced evidence of Administrative Officer S. N. Singh.

6. The first point needs consideration is as to whether the discharge order dt. 14-7-88 has been actually antedated. The concerned has stated that this order has been antedated and was received by him on 3-10-88. In his cross-examination he has stated that from 26-7-88 to 3-10-88 he was on leave. S. N. Singh the Administrative Officer in his cross-examination has conceded that the presence of concerned workman is recorded in the attendance register upto 27-7-88. The concerned workman has filed Ext. W.1 to W.12 attendance register and other papers to show that the concerned workman had worked beyond 14-7-88. Ext. W.15 is Insurance papers to show that the concerned workman had done business on 15-7-88 i.e., even after 14-7-88. In this way there is admission of the witness of the opposite party and overwhelming documentary evidence to show that the concerned workman had worked beyond 14-7-88. Ext. W.13 is the discharge order whereas Ext. W-14 is envelop which goes to show that this envelop was registered on 28-9-88. This shows that discharge order was not issued on 14-7-88. Instead it was issued on 28-9-88. This fact coupled with the fact that the concerned workman continued to work even after 14-7-88 would lead one and only one conclusion that the concerned workman had continued to work even beyond 14-7-88. As such his discharge order dt. 14-7-88 was antedated. It is held accordingly.

7. The concerned workman has also pleaded that after expiry of one year he was appointed as Probational Development Officer. No date of issuance of such order has been filed. In its absence the version of the concerned workman is disbelieved and it is held that concerned workman after expiry of apprenticeship was not appointed as Probationary Development Officer. Instead he continued to work as Apprentice. It was also the case of the management that discharge order was passed at the completion of apprenticeship period, hence it will be a case covered by section 2 (co) (bb) of I.D. Act. In view of my finding on this issue regarding antedating of discharge order, no force is left in this contention. Hence it is overruled.

8. I also do not find any force in the contention of the management that the concerned workman is not a workman u/s sec. 2(s) of I.D. Act. Even a apprentice has been taken to be a workman.

9. In the end in view of foregoing findings on various issues it is observed that discharge order having been passed by antedating the same is bad in law. As such the concerned workman is held to be entitled for reinstatement with back wages.

10. Reference is answered accordingly.

28-5-96

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 2 जुलाई, 1996

का.आ. 2198.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अवैधित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (6) के उपबन्धों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिमूचना संख्या का.आ. 70 दिनांक 22 दिसम्बर, 1995 द्वारा ताया खास उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 5 जनवरी, 1996 से छः मास की कालावधि के लिए, लोक उपरोक्त सेवा घोषित किया था,

और केन्द्रीय सरकार को यह है कि लोकहित में उपर्युक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अवैधित है,

अतः अद्य, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (6) के परस्पर द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 5 जुलाई, 1996 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फ.सं. एम 11017/7/85 आई.आर. (नीति)]

एच.सी. गुप्ता, अवर सचिव

New Delhi, the 2nd July, 1996

S.O. 2198.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S. O. No. 70, dated the 22nd December, 1995 the Copper Mining Industry to be a public utility service for the purposes of the said Act, for a period of six months from the 5th January, 1996 ;

And whereas the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months ;

Now, therefore, in exercise of the powers conferred by the provision to sub-clause (vi) of clause

(n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 5th July, 1996.

[No. S-11017/7/85-D. I(A)]

H. C. GUPTA, Under Secy.

नई दिल्ली, 3 जुलाई, 1996

का.आ. 2199.—अद्य अधिनियम, 1952 (1952 का 35) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार श्री सुबीर कुमार ठाकुर को अगले आदेशों तक मुख्य खान निरीक्षक के अधीन खान निरीक्षक नियुक्त करती है।

[संख्या ए 12015/8/91 आई.एस.एच. III]

उपमा श्रीवास्तव, अवर सचिव

New Delhi, the 3rd July, 1996

S.O. 2199.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints Shri Subir Kumar Thakur as Inspector of Mines sub-ordinate to the Chief Inspector of Mines, until further orders.

[No. A-12025/8/91-ISH. I/II]

MS. UPMA SRIVASTAVA, Under Secy.

